IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	NO. 11,989
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

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Date: March 3-4, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXXIV

PAGES 8733 TO 8878

DEFT. COPY

LAWYER'S NOTES

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Wednesday – 5th February 1964 – 10 AM

317 to 315

FBI hr Knoxville

Call me back – I want to talk to Mrs. M.C. Again for just a minute.

Did you coordinate your surveillance with Mr James Clarkin?

— with Mr. James Neal?

— With Mr James Walter Sheridan?

~~Was this Court under surveillance? —~~

Was this Courtroom under Surveillance? —

Were you at that time, 5 Feb 64 interested in the decisions of this Court in connection with your surveillance?

~~KG~~

UNID-D-4 MEL 06 — Bottom P 20 —

What as the decision —

It couldnt have been any better —

He overruled the motion to suppress his testimony & ruled that the defense had no right to examine the notes of Walter.

I N D E X

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
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(Thereupon, at 9:40 o'clock, p.m., the Court and certain counsel returned into open court and in the absence of the jury the following proceedings were had, to-wit:)

THE COURT: Are all counsel and all parties present?

MARSHAL MANSFIELD: All the attorneys are not here, your Honor.

MR. HOFFA: They are on their way over.

THE COURT: All right. Are all counsel present? Are all defendants present?

MR. SCHIFFER: Parks isn't. We waive his. We were told just the attorneys, as I got the message.

THE COURT: Well.

MR. SCHIFFER: I will waive his appearance.

THE COURT: Well, gentlemen, the officer attending the jury just handed the Court the following note:

"The jury would like to have re-read the testimony of Carl Fields and Thomas Ewing Parks relating to conversation in automobile across the street from Walker's shop and subsequent telephone conversations relating to the same. Hal W. Bullen, Foreman."

Obviously that testimony cannot be re-read to the jury once the case has been closed.

The only question the Court has is whether the Court should call the jury down into the courtroom and so instruct them or whether the Court can send a message by the

officer that it would not be proper to so instruct them.

MR. SCHIFFER: May we have an opportunity to consult, your Honor?

MR. BERGE: As far as the Defendant Hoffa is concerned it would be perfectly all right to send a message, your Honor.

THE COURT: May I on this note make the statement? I will read the statement that I make on the note.

MR. BERGE: Yes, your Honor.

MR. SCHIFFER: Yes, sir.

MR. NEAL: Your Honor, I'm under the impression that the Court can re-read testimony to --

THE COURT: (Interposing) I thought the Court had ruled. No use getting into an argument. We wouldn't agree.

MR. NEAL: It's not a question of agreeing. I am under -- I think the Court has the authority to re-read testimony to the jury.

MR. SCHIFFER: Your Honor, the case is closed and we are certainly in agreement with your Honor to send the note.

MR. NEAL: Your Honor, give us about five minutes? I think we can find some authority for the proposition if your Honor wants to do it, I am not going to --

THE COURT: (Interposing) Well, no, gentlemen,

I don't know what testimony -- we would have to re-read the entire record in the case.

MR. SCHIFFER: Yes, sir.

THE COURT: I don't think that is proper.

MARSHAL SERTEL: Court is still in session.

THE COURT: If I were to send this note back:

THE COURT: If I were to send this note back:

"Dear Sir: Once the case is closed and submitted to the jury it is not permissible to re-read any portion of the testimony unto the jury. If you desire any further explanation of the reason for this rule of law, you may request return to the courtroom and the Court will explain the rule in this respect more fully."

Is that satisfactory to send this to the jury?

MR. BERKE: Yes, your Honor.

MR. NEAL: Your Honor, could we, in case this comes up again, could we give your Honor a case or two on this subject that you might want to look into?

THE COURT: Yes.

MR. NEAL: United States versus Campbell, 138 F. Supp. 344 and then --

THE COURT: (Interposing) Wait just a moment. U. S. versus Campbell, what?

MR. NEAL: Here is United States versus Campbell, 138 F. Supp. 344, page 345 and it states as follows:

"Since the advent of the reporting of trials by

court reporters it has not been uncommon for a jury deliberating upon a case to request the Court to have a reporter read to them the testimony of a certain witness or witnesses. When such a request is made it is not uncommon for the party as to whom the testimony is unfavorable to object to the reading of it at all or to object to the reading of it unless other testimony contradicting is also read. It is well established that it is proper for the trial judge to grant the request of the jury for the reading of certain testimony by the court reporter and deny the request of a party to also have other testimony relating to the same subject matter."

And there are, looks like 10 or 12 cases cited by United States versus Campbell.

I would respectfully request that your Honor might want to consider this Campbell case and the cases there cited before you rule conclusively on it. There are other cases, a Sixth Circuit case of Henry versus United States, 204 F. 2d, 817 at page 820 and 821.

Now, in that case the Court said that you had to be careful in re-reading testimony but there the testimony they wanted re-read were comments of the judge on the testimony.

THE COURT: Well.

MR. NEAL: Another one, your Honor.

THE COURT: Beg your pardon?

MR. NEAL: Easley versus United States, Fifth Circuit, 261 F. 2d 276 at page 277, and here is the statement made there:

"After the jury had been deliberating, it requested the record of one of the government witnesses played back and there the Court permitted it. We think the granting of the request was within the District Court's discretion and no abuse of that discretion was shown." And they cite a number of cases.

It appears that the Campbell case cites most of the authority or at least it cites a string of cases to the proposition that it is expected that the opposite side will object and the Court can certainly permit it to be done.

We think it is highly proper here since they apparently want both sides, they want the Witness Fields' testimony about the conversation outside of Jack Walker's shop and they want the Defendant Parks' testimony in respect to that meeting read.

THE COURT: Well, gentlemen, let me, I believe my secretary has gone, let me type this. I am not sure any juror could read my handwriting. I was just going to reword the note to this effect that, "With reference to your note requesting a re-reading of the testimony, I regret to advise that such a procedure would not be permissible. If the jury

should desire any further explanation of the reason for this rule of law you may request return to the courtroom and the Court will explain the rule in this respect more fully."

Let me get this typed up.

Well, I understand they have sent word down that they would like to adjourn for the day, so let's just do that at this time; we will take this matter up in the morning.

End 53
54 fls

Have the jury return.

MR. BERKE: It will be all right with us, your Honor, to advise the jury what you are going to say in the note if your Honor thinks it would be more expedient, it will be all right with us.

THE COURT: All right.

MR. NEAL: Your Honor, we request that your Honor wait until in the morning at least to look at the Campbell case that the government cited. It certainly is not going to be any waste of time to wait until in the morning. I am sure Mr. Berke is willing to do this but I would like the Court to read the Campbell case and the cases cited in the Campbell case.

MARSHAL SERTEL: Does your Honor want them to line up?

THE COURT: Yes, sir, across this way. Just come across in front of the bench and stand here a moment, ladies and gentlemen.

(Thereupon, the jury of 12 were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: Gentlemen, the jury has returned in the case United States vs. James R. Hoffa, et al. Is there a request for a poll of the jury before we recess for the evening?

MR. BERKE: No, your Honor.

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MR. HOOKER: No, sir.

THE COURT: The poll is waived by all counsel. I understand, ladies and gentlemen, at this time you desire to recess your deliberations and adjourn for the evening. Does the Court understand correct in that respect?

THE FOREMAN: Yes, sir.

THE COURT: Mr. Bullen, if you will please, all papers and forms that you have, please, the Clerk will furnish you an envelope, do you have an envelope there, sir, if you will, place those in the envelope and seal the papers then, sir, if you wouldn't mind, just writing your name over the seal. All right. That will be re-delivered to you in the morning then when you resume your deliberations. Now, ladies and gentlemen, after you adjourn here this evening, do not discuss the case any more among yourselves. Do not talk about the case at all at your hotel. Do not resume any further deliberations in the case whatsoever until after you report back here in the morning and the Court again excuses you to the privacy of the jury room. You see, it would not be proper for any discussion of the case to be had except when all twelve jurors are present, and when all twelve jurors heard all that was being said and, therefore, you are asked to not talk about the case in any manner, not to discuss the case in any manner at any time outside of the privacy of the jury room. So please observe that instruction tonight. Do

54 tk 3 .

not talk about the case among yourselves at all. If you have occasion to talk with each other any further this evening, discuss matters wholly unrelated to this case. Be back then at nine o'clock in the morning. And, of course, observe the other instructions the Court has always given you, that is, do not allow anyone to talk to you about the case in any respect. You may be excused at this time to report back, please, at nine o'clock tomorrow morning.

(Thereupon, at 10:02 o'clock P.M., the jury of 12 were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right, let's remain in the court-room, please, not anyone leave the courtroom, until the jury has been taken out of the building. I understand the jury has left the courthouse. Very well, let's adjourn court until nine o'clock tomorrow morning.

(Thereupon, at 10:05 o'clock P.M., March 3, 1964, court was adjourned until nine o'clock A.M., March 4, 1964.)

End Tk 54

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on March 3, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 3rd day of March, 1964.

Fred B. Downing

Official Court Reporter

THIRTY-THIRD DAY OF TRIAL

9:00 O'Clock A.M.
March 4, 1964

(Thereupon, pursuant to adjournment from March 3, 1964, court was in session.)

(The jury remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. SCHIFFER: Your Honor, may I address the Court?

THE COURT: Yes, sir.

MR. SCHIFFER: With reference to the motion on surveillance, your Honor, I have had the Clerk stamp as of today a sealed envelope containing certain information, which I am delivering to the Court, as I have a similar exhibit on this same motion and it is sealed and signed by Bernard Spindel containing 29 sheets of handwritten copy and for the information of the Court and the government this has not been read or seen by anybody but Mr. Spindel and it is offered to the Court for its own perusal.

MR. SILETS: If it please the Court, in the course of this motion it will be necessary for myself and whoever else will be conducting the examination of witnesses to confer from time to time with Mr. Spindel, since he is an expert in this area, and I ask leave of the Court to have him

present to assist me in the course of the examination.

MR. HOOKER: I assumed he would be the first witness.

THE COURT: If you are going to use him as a witness it will be necessary to use him first then.

MR. SILETS: Well, except this, your Honor, I know that the Court gives exceptions to the rule and the exception, I think, should prevail here because, after all, this is not a jury matter, this is a motion before the Court.

THE COURT: Yes, but he shouldn't sit in and listen to everybody else's testimony and then testify too as a witness. If you wish to use him as a witness and after he has been used as a witness and then retain him in the courtroom, why, I will permit you to do so.

MR. SILETS: Well, may I put him on for a limited purpose and then recall him?

THE COURT: I think he should be put on generally. I don't think a witness should sit in the courtroom and listen to all of the testimony of others and then be put on the witness stand to testify. He is not a defendant.

MR. SILETS: Yes, sir, but I just want to point out this, if the Court wishes I will put him on to qualify him as an expert to establish the fact that he is an expert, just the way that an income tax case, I have had hundreds of experts sit with me throughout the trial and at the end of

the case they testify. That is the purpose of having him present, so that he can assist me through the course of this as an expert, not necessarily as a witness.

THE COURT: Well, if you wish to have him testify about any matters it will be necessary to have him testify before he remains in the courtroom. After he remains in the courtroom he would not be permitted to testify about matters as a witness.

MR. SCHIFFER: Pardon me, your Honor, may I consult with Mr. Silets?

THE COURT: Before we proceed let's have the jury in the case.

MR. REDDY: Your Honor, may I say something a moment?

THE COURT: Yes.

MR. REDDY: That is with reference to the reading of the transcript to the jury. Has your Honor decided?

THE COURT: Yes, I have decided what should be done in that regard. Let's have the jury returned.

MR. REDDY: I'd like to be heard on the proposition if they should have it read to them, if your Honor rules that it should not be--

THE COURT: (Interposing) I do not propose to read it to them at this time.

MR. REDDY: At this time?

THE COURT: I shall give instructions to the jury in that respect, if you wish to be heard further.

MR. REDDY: Sir?

THE COURT: Then if you wish to be heard further I will hear you but I do not wish to delay the jury continuing their deliberations at this time.

MR. REDDY: I think it would expedite things to read it to them.

THE COURT: Have the jury when they arrive just come across in front of the bench instead of taking a seat.

End Tk 1
Tk 2 fls.

(Thereupon, at 9:05 o'clock, a.m., the jury was brought into the courtroom and the following proceedings were had, to-wit:)

THE COURT: As in the Army it is the practice to have a roll call every morning before breakfast, but I think perhaps you have already had breakfast this morning. Is there a request for a poll of the jury to ascertain that all 12 jurors are present?

MR. BERKE: No, your Honor.

MR. HOOKER: No, your Honor.

THE COURT: It is apparent that they're all present. Ladies and gentlemen, at this time I want to let you continue your deliberations. With regard to the request made for re-reading certain testimony last evening, attempt to resolve among yourselves any matters with regard to such testimony if you can. If you are unable to do so, and desire to request a re-reading of a specific portion of a specific witness' or witnesses' testimony, then the Court will consider that request. In general, it is not proper to re-read large or general portions of the testimony after the case has been submitted to the jury. As such a procedure would amount to a re-opening of the trial and I think upon reflection you can understand that.

I realize that this has been a long trial and it is difficult to remember specific items or specific

testimony and if you find after you have carefully deliberated among yourselves and consulted with each other that you desire to have specific testimony of a specific witness or witnesses if you could, as you did, submit a request in that regard in writing, and attempt to identify as specifically as you can the portion or portions that you desire read, the Court as I say will consider that request. I can't assure you that it can be granted, but I will consider it and do all that I can to assist you in conducting your deliberations in an intelligent manner. If you will please then continue your deliberations at this time. And report back to the Court when you have arrived at a verdict or desire any further instructions.

Yes, Mr. Dale, if you will deliver the envelope to Mr. Bullen. Thank you very much, ladies and gentlemen.

(Thereupon, the jury retired from the courtroom at 9:08 o'clock, a.m., to further deliberate on their verdict and in the absence of the jury, the following proceedings were had, to-wit:)

THE COURT: All right, now are we ready to proceed upon this hearing?

MR. SILETS: Your Honor, I have issued some 25 to 30 subpoenas of the FBI individuals. I would like to call upon the government to produce the documents which I have subpoenaed from each of the agents in charge. I think there

were four agents in charge and Mr. Tolson, from Washington.

MR. NEAL: Your Honor, we have some 16 or 17 FBI agents in town at the present time to continue this hearing or that is to testify if called to the stand by the defendants. I would respectfully request the Court to consider a motion we will have before others are called. We have gotten as I say 15 or 16 or 17 people into town. The motion will move to quash subpoenas on people such as Tolson who is in the hospital and seriously ill. He is the first assistant to Mr. Hoover. It will be to quash subpoenas on the agent in charge of the Louisville office, the agent in charge of the Birmingham office, who know absolutely nothing about this matter, have not sent agents in here, have no papers and so forth.

Then, of course, we will like to take up with the Court if the Court considers further hearing necessary a Department of Justice order where Department of Justice papers are produced in something like this, It is Department of Justice Order No. 260-62, I believe, isn't it?

MR. REDDY: Yes, sir.

MR. NEAL: 260-62. It is an order authorized by the so-called Housekeeping Statute of the United States Congress that provides someone such as myself must tell --, must ask the Court if I am required to respond and then seek direction from the Attorney General. Where it is matters

unlike the Jencks statements or something like that. Where it is matters simply of inter or intra-Department of Justice reports such as they are asking for here. However, we do have 16 or 17 agents to go on today. But we also think this, your Honor, we think that they filed their affidavits now that the Court has granted a hearing, as I understand the purpose of an affidavit, well, it has two purposes. Number one, the factual issue may be decided on after the affidavits under Rule 12. I believe it is Rule 12. Federal Rules of Criminal Procedure.

End 2
3 fls

Number two, the affidavit may cause the Court to decide a hearing is necessary. If a hearing--, if the Court decides a hearing is necessary then it is the responsibility of the person with the burden, such as the movants here, to produce their affiant, otherwise, as I understand, if the Court decides that a hearing is to be held, if they don't produce their affiants then the government can move to strike the affidavits.

Now, we are prepared to respond but we think they should produce their affiants here to justify or to carry their burden of proof, then we will have the FBI agents here if the Court deems them necessary.

MR. SILETS: Your Honor, I think the issue of whether or not we are going to have a hearing has been disposed of. We are going to have a hearing and the Court directed a hearing and that is why we are here now.

Secondly, as to the method of proof. I suggest to the Court that the fact that one party is a movant is of no consequence. The fact is what we are obliged to put in our proof, we put it in any fashion we see fit. They have seen fit to respond with affidavits.

There is absolutely no authority for the proposition that we have to go forth with our man who has given an affidavit first. If it is more reasonable and logical to introduce proof by calling the agents in charge who have

the records of the very surveillance that they admit then that is the most logical procedure.

Now, I call upon the government before I can proceed to produce for me the reports that I have subpoenaed of the various agents in charge, which are specifically and categorically limited to the surveillance which the government has admitted by virtue of their affidavits and their response to our motion.

I have not subpoenaed the entire FBI file. I have limited it exclusively to the reports, the daily reports, the summary reports that the FBI made of this surveillance of these 25 agents who they admit were in Chattanooga watching certain individuals related to this case.

Now, I think I am entitled before I proceed to examine those reports so that I may intelligently proceed and I may intelligently examine my witnesses.

Now, I have subpoenaed the FBI people. When I call them they will be my witnesses. Now, the government is going to tell me who I should put on first in terms of my own proof?

MR. NEAL: Your Honor, we don't presume to tell Mr.--, the government does not presume to tell Mr. Silets whom he shall put on first. I think that is within the discretion of the Court.

As I said, we have the agents here. If he wants

to put them on--,we have filed affidavits in response to theirs and we have not surveilled any defendants or counsel. We have testified that and we will have people here who they called FBI agents that are people around Chattanooga, ordinary citizens.

Since they have filed affidavits here that say there is surveillance--, we are not trying to determine their order of proof--, we think the Court, however, has a discretion in that matter.

I would like to refer the Court to and read the Department of Justice order No. 260-62, a regulation relating to the production or disclosure of material or information in the files. This is what I am bound by, Your Honor, and I, of course, want directions from the Court on this.

By virtue of the authority vested in me by Section 161 of the Revised Statute (5 USC 22), that is the so-called housekeeping statute, and Section 2 of re-organization plan No. 2 of 1950, 64 Stat. 1261, I hereby prescribe the following regulations relating to the production or disclosure of material or information in the files of the Department of Justice:

Section 16.1. Response to subpoena or order for production or disclosure. Whenever a United States Attorney or any other officer or employee of the Department of

Justice is served with a subpoena or order for the production or disclosure of material or information contained in the files of the Department of Justice the United States Attorney or such other attorney as may be designated shall appear with the person upon whom the demand is made and inform the Court or other issuing authority that such person is not authorized to produce or disclose the material or information sought. Time shall be requested within which to refer the subpoena order to the Attorney General--, the United States Attorney or other attorney designated shall refer the Court to the regulation in this order. Advice as to such order shall be given immediately to the Attorney General without waiting for appearance. Section 16.2. Action to be taken on adverse ruling by the court. In the event the Court declines to defer a ruling until instruction from the Attorney General have been received or in the event the Court rules adversely on a claim of privilege asserted under instruction of the Attorney General, the person upon whom such demand is made shall, pursuant to the regulations of this part, respectfully decline to produce the materials or information sought. The United States ex rel Touhy versus Ragan 340 U.S. 461. This order supercedes order No. 3229, revised, dated January 13th, 1950, Robert F. Kennedy, Attorney General.

Now, this is almost identical to the regulation that has been in existence in the Department of Justice for

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15 or 20 years, I suppose. This is not a claim of privilege, Your Honor, it's merely a reference to the Attorney General or the Deputy Attorney General for their determination as to what action should be taken, whether the document should be produced or whether they should assert some privilege because of the nature of the document.

Now, in this case we have not appeared upon a meeting upon the issuance of the subpoena as the regulations called for there and discussed this with the Court because there has been another matter intervening, the trial of the case.

We would respectfully request the Court that we go as far as we can while we get the subpoenaes here, while we seek direction from the Deputy Attorney General and/or the Attorney General as to what we should do on this.

With respect to the subpoenaes, I have been endeavoring to get the subpoenaes. I personally have not seen the subpoenaes. Defense counsel have not seen fit to permit me or show me a copy of the subpoena or any of them but we don't know what the subpoenaes call for.

MR. SILETS: May I respond, Your Honor? I sometimes feel privileged that Mr. Neal seems to like to cite cases that came out of my district, for example, Touhy versus Ragan; in that case, Your Honor, the District Court saw fit to put the local special agent in charge of the FBI in jail

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until he produced the documents.

MR. NEAL: The Supreme Court saw fit to reverse.

MR. SILETS: The point is this, Your Honor, that Mr. Neal had these subpoenaes for a week and he now at the last moment in his argument suggests to the Court that he didn't do anything.

Now, I state to Your Honor that they had those subpoenaes for a week, and he now at the last moment in his argument suggests to the Court that he didn't do anything.

Now, I say to Your Honor that they had those subpoenaes for a week, whether he has seen them or not they were handed to the United States Marshal for service.

Now, he knows about them, that is pretty obvious, and so did the agents because they are here and that is pretty obvious, and I suggest to Your Honor that no matter what Mr. Neal says that it appears that the government is going to take refuge in the administrative fifth amendment.

End 3
Tk 4 fol.

That is what it amounts to and Title 5 Administrative Procedure Act Section 22 they are going to say that they don't want to produce those. I think, if your Honor please, that it is up to the Court now to direct the government to produce these documents becsuse there is no issue that these individuals were in fact here. They have by sworn affidavits admitted being here. The issue is were they keeping under surveillance individuals in addition to those that they have mentioned in their affidavits.

Their affidavits are very circumscribed intentionally so. They are very limited, intentionally so. But we know and the Court knows that every day the FBI must submit a daily summary of their activities and those are the reports I have asked for. And on the daily summaries relating to the matters that they swore to under oath, that is their surveillance pursuant to their assignment in Chattanooga.

I have not asked for them to tell me about their investigations of the Communist League or the Abraham Lincoln League for the Communist movement or anything. I want them to produce only and exclusively the reports relating to the matters they swore to.

Now, your Honor, in addition there is one other thing that I have subpoenaed and that is the travel authorizations for the agents to come down here. Now, apparently Mr. Neal doesn't make any argument about that. He is

confining himself to the daily reports. But I say to your Honor, the theory of the United States vs. Coplin this very procedure was done in the Coplin case and the defendant in the Coplin case put on over a hundred FBI agents together with their reports. This is not unheard of before. The government knows this.

But what they want you to do now at this late time is say give us time to go to the Deputy Attorney General and they have had ten days and they have asked the Court, and we have asked the Court for an immediate--strike that--we have asked the Court for an immediate hearing. The Court in the Court's wisdom said, let's wait until the case goes to the jury. If they had any reason to invoke their administrative Fifth Amendment they should have done it during that time during these ten days. We have not asked the government lawyers anything more than we are entitled to. And they don't dispute that we are entitled to it. The only thing they say is that we invoke the Fifth Amendment under Title 5.

MR.NEAL: Your Honor, just briefly, there has been no administrative Fifth Amendment or any other Fifth Amendment claimed. I thought I made that clear. This is under the Housekeeping Statute. It is something I am bound by.

Personally I don't see the problem with reports. However, I do know that there is great, great reluctance ever

in any court to turn over intra-Federal Bureau of Investigation reports. I think this is--I can understand the basis for this. This is something that is generally resisted, not to prevent, not to prevent any determination by the Court or the truth, but you do that not generally, when it is done generally, it is in Communist cases, it is done in cases involving great matters of national security.

This is a grave matter. And the Department of Justice, and J. Edgar Hoover and the FBI takes this thing in a grave fashion. Now, they are not trying to prevent a hearing. We have filed specific affidavits. Affidavits in response to these very general affidavits of the defendants as to them seeing somebody outside and then the occasions of the picture, this is never an FBI agent. We will have the people here, some of them at least whose picture was taken claiming to be FBI agents. We are discussing now the FBI intra-department files.

I did bring this up to the Court, the Court said let's wait for that. We are not dilatory on this. I would like to ask if all the affidavits are like this. May I read it to the Court?

MR. SILETS: Well, there are two kinds, Mr. Neal. Straight subpoena and subpoena duces tecum.

MR. NEAL: Are all the subpoenas duces tecum like this? Bring with you all travel authorizations including

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teletype authorizations for the assignment of any and all agents to Chattanooga, Tennessee, for investigative purposes relating to the trial of the United States of America vs. James R. Hoffa, in the Eastern District of Tennessee, Southern Division, and then a report prepared by any agent so assigned arising out of said assignment of any agent so assigned?

MR. SILETS: That is it.

MR. NEAL: Your Honor, that is not a specific subpoena. I will read it again and any report prepared by any agent so assigned that is assigned for investigative purposes arising out of said assignment of any agent so assigned.

MR. SILETS: That's right, Mr. Neal. Read it again. It relates to this case.

MR. NEAL: May I make my statement? Your Honor, we have agents who will take the stand and testify, they will testify under oath as to what they did, what surveillance they conducted, about the surveillance they did not conduct.

I can't see how a report prepared by any agent so assigned arising out of said assignment of any agent so assigned would assist in arriving at the truth of the matters involved in this hearing. They will be here. They will take the stand. They will take the stand under oath, all the penalties of oath. We have seen here from--we know that agents of the Federal Bureau of Investigation do not lie.

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So that should certainly satisfy anyone as far as the factual issue is concerned, there is no basis for going into the intra-Federal Bureau of Investigation reports.

MR. SILETS: Your Honor, may I say this, I spent four years on that side of the table and I have read thousands of FBI reports and I have some little knowledge of the FBI.

And I know it is a duty of FBI agents on assignment to prepare or at least give daily summary of his activities and in this case I know that the daily summary was given to the agents in charge in Chattanooga and phoned to Knoxville, Tennessee. Where it was disseminated. At this point 13 copies are prepared for distribution. Three copies go to Washington, D. C., including a master.

Now, for example, if it relates to the Defendant James R. Hoffa, they will send a copy in that distribution to his home in Detroit, to Chicago, to New York, or any other place where they may have occasion for use for that information. This is not, and the Court probably in the course of the many criminal trials the Court has conducted is aware of this procedure.

Now, your Honor, I am not asking for everything and I have asked very limitedly to their assignment concerning this case, U. S. vs. Hoffa, and Allen Dorfman and others. I haven't asked for the moon. I have been very circumspect and very circumscribed in my request.

THE COURT: All right, gentlemen, the Court does not have before it these subpoenas duces tecum referred to. I think that those subpoenas should be filed in the court record or copies of them should be filed in the court record. And I think the government ought to file, if they have any objection to it, I think they ought to file a written objection to them. Is there any reason why such objection could not be filed before the day is over or if you have such objection?

MR. NEAL: No objection at all, your Honor. Of course, if we cannot go ahead with the hearing without resolving this matter at this time--

THE COURT: (Interposing) Well, we have got other witnesses, we can proceed.

MR. SILETS: Your Honor, I can't intelligently examine my witnesses, I can't put on these agents unless I see their reports and their reports are not in their possession but the possession of the agents in charge.

End Tk 4
Tk 4A fls.

If the Court is going to permit me to go ahead, I will start with the agents in charge because they are the only ones I subpoenaed to bring in the reports. And if they have replied to the subpoena as they should under the law they would bring them into court with them.

MR. NEAL: As I say, your Honor, if it is a question of whether we have to determine this issue, before we proceed or not, then I request a recess to talk to my superior.

THE COURT: All right. How much time do you desire? How much time do you think you may need?

MR. NEAL: Well, 10 or 15 minutes.

THE COURT: Well, let's take a 15-minute recess.

(Thereupon, at 9:28 o'clock, a.m., court was in recess.)

End 4a
5 fls

MR. SILETS: Your Honor, my understanding is that the subpoenas which the Court inquired of have been filed of record with the Clerk.

THE COURT: I have just checked, Mr. Silets, and there are three subpoenas duces tecum in the court file, one to Mr. Jay Hawkins, one to Everett J. Ingram, and one to Clyde Tolson.

MR. SILETS: There are two others, your Honor, that were filed with the agents in charge of other offices.

THE COURT: I was unable to find copies of those in the court file.

MR. NEAL: I have three others, special agent in charge, Louisville; special agent in charge, Birmingham; special agent in charge, Memphis; is that right, three others?

MR. SILETS: The one from Knoxville is Mr. Ingram?

MR. NEAL: Right. So three others, is that correct? May it please the Court, I have a motion I'd like to file. It is a motion to quash subpoenas and reads as follows:

"The government moves to quash the subpoenas duces tecum served on Mr. Clyde Tolson, served on the special agent in charge, Louisville office, FBI; special agent in charge, Birmingham office, FBI; special agent in charge, Nashville office, actually that should be the Memphis office, I believe, Memphis office of the FBI, that would cover Nashville, by the

way; special agent in charge of the Knoxville office of the FBI; and Jay Hawkins of the Nashville office. A copy of the subpoena was served on the special agent in charge of the Knoxville office and is attached hereto and the government represents and I believe defense counsel has stated on the record that I am correct that each subpoena served on the above persons is identical to the attached subpoena, which was served on the special agent in charge of the Knoxville office. Is that correct, Mr. Silets?

MR. SILETS: Well, the difference is, of course, in the names, but if he is referring to the requested records, that is correct.

MR. NEAL: The government submits that the subpoenas served on the above individuals are unreasonable and oppressive under Rule 17(c) of the Federal Rules of Criminal Procedure in that they are unlimited as to time and are not limited to materials relevant to the subject matter of the hearing for which they were issued.

I would like to file -- I have served a copy of the motion on each defendant and I file a copy with the Court.

I have, as your Honor will see in that motion, I have marked out the word "Nashville" and put the word "Memphis" in its place.

End 5
6 fls

May it please the Court in addition to this, Your Honor can see there have been some six subpoenaes served. In addition to this there have been some 31 agents. We have all--, there were 16 agents served with subpoena ad testificandum, agents from the Knoxville office.

Three from the Memphis office or Nashville office.

Three from the Charlotte office.

Three from Atlanta, three Atlanta agents, and Mr. Al McGrath, supervisor of the Federal Bureau of Investigation, Washington.

I have told the Federal Bureau of Investigation to have the 16 Knoxville agents, three Memphis agents, three Charlotte agents, three Atlanta agents to come in.

Now, with respect to two of those subpoenaes, that is the subpoenaes to the Louisville and the Birmingham special agents in charge, since they are both subpoena ad testificandum and subpoena duces tecum I think it proper to point out to Your Honor that I'm advised that the special agents in charge of the Louisville office, Federal Bureau of Investigation, and the special agent in charge of the Birmingham office of the Federal Bureau of Investigation, have not sent any men here with respect to this matter. That they have no knowledge of it. And I so advise the defendants.

Now if the defendants or if the Court suggests

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that they come, they will be here. But I would respectfully request the Court if they do come these special agents in charge of big offices, and if they confirm what I'm saying that I would think that some action should be taken against the defendants for these irresponsible subpoenaes.

I'm representing to the Court what has been represented to me. That is, with respect to the Louisville, Birmingham, special agents in charge, they have sent no agents in here. They know nothing about the matters.

MR. SILETS: Well, Your Honor, if the Court please, Mr. Neal is now mixing oranges and apples. He does admit that the Atlanta, Memphis, Charlotte and Knoxville offices sent agents. And in the same breath he moves to quash the subpoenaes of the Memphis and Atlanta agents in charge as well as the agent in charge at Knoxville.

Now, at the very minimum we should start with those agents in charge that he does admit that sent agents in here.

And if in the course of our examination it is apparent that there are no other agents and that the agent in charge of these other respective offices wants to submit an affidavit, you know, I take the word of Mr. Neal as an officer of the court, but in the terms of our proof I think we ought to have a sworn statement from these people. But I think we ought to start with those agents in charge that did

in fact send agents here. And if it develops in the course of our proof that those are all the agents, it is our contention that there are more agents, and that is what we are seeking to establish, but if that is what the proof establishes, that there are only these agents and that those agents in charge are willing to submit a sworn statement to that effect, well, then, that is for the Court to determine at that time.

But I suggest again to paraphrase, make a metaphor here, that again Mr. Neal is mixing oranges and apples. Let's start with the agents in charge that have sent people here.

MR. NEAL: Well, Your Honor, I think this, I think that this matter can be determined by having Mr. Ingram, special agent in charge of the Knoxville office and can testify to the offices that sent agents in here and to the offices that did not send agents in here since he knows the agents who were here. He is here. I told Mr. Ingram to stand by with records and I suggest that he take the stand to determine the offices.

However, I have got to know something if the Court--, unless we are here all this week, I've got to do something with respect to getting agents in here if the Court insists. That is my position on it. I think if we can put Mr. Ingram on and he can determine to the satisfaction

of the Court what offices are involved then we certainly, it seems to me could--, if I'm correct and I have been advised correctly as I think I have we can tell the special agents in charge of the Louisville office, special agent in charge of the Birmingham office that by all means that he will not be needed. Otherwise, they are standing by awaiting Your Honor's order, and Your Honor remembers you said you would give us plenty of time to get them here.

End 6
7 fol.

THE COURT: Well, can they not file an affidavit with regard to the matters which you understand?

MR. NEAL: Oh, yes, they can, the special agent in charge of the Louisville office, the special agent in charge of the Birmingham office, will file an affidavit, it may take some time to get here, but Mr. Ingram could testify, I think to the satisfaction of Mr. Silets, that they did not send agents either way.

MR. SILETS: Your Honor, I think the only man who really knows who has been assigned at any particular place is the coordinating agent in Washington. I think that the travel records from Washington should be produced so that we could substantiate this. I think that man is Mr. Tolson or one of his representatives. That will show a copy of all teletype authorizations sent to Washington.

Now, a copy of all teletype authorizations sent to Washington.

Now, it may be that a particular agent in his charge, he is not aware that one of his agents is gone, I don't know.

MR. NEAL: You have watched the FBI operate and you don't know if an agent knows if one of his officers are gone or not?

THE COURT: Gentlemen, let's address your remarks to the Court.

MR. SILETS: Your Honor, I'd like to start this examination and I would like the government to produce, let's start with Mr. Ingram and have him bring in his records.

THE COURT: Well, gentlemen, could we not proceed in this manner, if you desire to start with Mr. Ingram, start with Ingram and place him on the stand. If there are records requested of him, let him submit the records to the Court for examination by the Court; if the records do not in any way pertain to the issues on this motion to suppress, I mean on this motion of surveillance, then certainly those records should not be just made promiscuously public.

If the records do pertain to the matter, to the subject matter here, then the Court will have to consider the motion to quash the subpoena and rule upon it at that time.

MR. NEAL: May I suggest something in respect to that, your Honor? I am authorized, if it comes to it, to submit the reports to the Court for the Court's in camera inspection; however, your Honor, this is a very serious matter. These people over here make charges in Congress, they get copies of these things that are submitted if they are opened, they make copies of them, they are indiscriminate in the use of these things.

Now, this is not just like a Jencks statement or something like that, your Honor. This is a matter of internal operation, internal procedure of the Federal Bureau

of Investigation. It is a matter of setting precedent.

The Federal Bureau of Investigation is very concerned about turning over matters of intra reports and making them available to defendants, who use them, as I say, as indiscriminately as these people do. It is not just a matter of a Jencks statement. This is a matter of information on operation of the Federal Bureau of Investigation, of procedure of distribution, a very serious matter, your Honor.

Here is what I would suggest -- it's not just whether the agents, the records turned over to the Court are relevant to the hearing or not, your Honor, but why shouldn't the Court treat it in the same nature as grand jury minutes? If the agent takes the stand and he testifies, if he testifies if the reports are consistent with his testimony, then what is the necessity of turning the reports over to the defendant, and I think it is a matter of vital public interest involved here. I can't emphasize that too much.

If the reports are consistent with the agent's testimony, why make them available to the defendants?

THE COURT: Well.

MR. SILETS: May I be heard on this, your Honor?

THE COURT: Yes.

MR. SILETS: Now, it wasn't the defendants who were surveilling the FBI, it was the FBI who was surveilling the defendants, and these reports are not made in a vacuum.

These reports are made pertaining to particular individuals.

Now, can the government, in all due process of law, say, "Well, we are the FBI. We have a mantle, a cloak of secrecy, and, no, ladies and gentlemen, this pertains to specific individuals in a specific lawsuit, a trial for men's liberty, even those reports, though they pertain to these men, well, we are not going to turn them over to you."

Well, your Honor, I had relatives in Europe who were put in a gas chamber on tactics just like that.

Now, I suggest to the Court that when Mr. Neal asks the rhetorical question why should they get them, I say the answer is due process of law, a matter that was handed down 184 years ago in our Constitution, and these men cannot be deprived of due process of law because the FBI wants to put a mantle of secrecy over their actions.

I am not asking for them to tell me their inner workings, I want the reports relating to these men.

THE COURT: All right. Let's do this, gentlemen, let's proceed with the examination of the witness and any documents that he may have in response to subpoena, have them submitted to the Court for inspection by the Court in camera and then I think we would be in a better position to appreciate argument of counsel as to their being subject to being produced.

MR. SILETS: Of course, your Honor, our position is that they should be produced, they are relevant, they

pertain to the very matters at issue, they pertain to the matters disclosed in the government's own affidavits.

THE COURT: All right.

MR. SILETS: Now, your Honor, I would like to commence this motion by reading some matter.

MR. NEAL: Just a minute if you are going to another matter.

THE COURT: One matter --

MR. NEAL: (Interposing) May I make a statement on that to the Court?

THE COURT: Yes.

MR. NEAL: We are certainly agreeable to proceed as your Honor suggests, turn over to the Court for in camera inspection. Could we do that with the understanding that the government might still possibly be forced to refer back to Executive Order 260, even in the point of privilege?

THE COURT: Well.

MR. NEAL: In other words, we don't waive that by turning them over to the Court at this time.

THE COURT: Well, until I can understand the problem a little better, gentlemen, I wouldn't ask you to waive anything, but I think that we will proceed in this manner, it will help the Court to understand just what the problems are to make the proper decision in this case.

Now, then before proceeding, Mr. Silets, with

another matter, referring back to the exhibit filed by Mr. Schiffer this morning, a sealed exhibit with the name of "Bernard B. Spindel" written across the seal on the envelope, the Court is just not familiar with the practice of a stranger to a lawsuit filing a sealed document in which no attorney or no party alleges to have any knowledge whatsoever. I am just not familiar with that sort of practice, gentlemen.

MR. SCHIFFER: May I explain to the Court our position on that?

End 7
8 fls

THE COURT: Yes, sir.

MR. SCHIFFER: It has been the practice in this court in this very case for the government, and I say surreptitiously, to take papers and put them into a sealed envelope and give them to the Court. We get no copies of what is in the sealed envelope and that has been permitted by the Court in exhibit after exhibit.

THE COURT: Has the government ever filed a sealed envelope in which they said they had no knowledge at all of what was in the envelope?

MR. SCHIFFER: I don't know whether they said they had knowledge or didn't have, but by the same token I am representing a defendant accused of a crime here. He has certain rights of which I am here to protect and I am strongly protesting to the fact that the government at their own option have been permitted to give sealed documents to the Court and it goes back to the days when we were hearing motions before Judge Gray, your Honor, in this very case.

It is so vital evidence and some of the vital evidence was proved that one of the star witnesses for the government actually had perjured himself on this stand, and that what they had sealed and kept from this defendant, Mr. Parks, and the others, the proof of that man's perjury on the witness stand, the Court nevertheless kept it from the defendants in its sealed state. What I say now in relation to this exhibit--

THE COURT: (Interposing) Mr. Schiffer, Mr. Schiffer, in case of every envelope that has been sealed by the Court there is specific provision in the law for doing that. Now, what I am asking you, is for you to cite to the Court where there is any provision in the law for a sealed document to be submitted by a stranger to the lawsuit to the Court in which counsel for the defendants represent that they have absolutely no knowledge of the contents of that envelope.

MR. SCHIFFER: Yes, sir.

THE COURT: I just am totally unfamiliar with that sort of procedure. If that were the case then I suppose that everyone across the United States that has anything that they think the Court ought to look at could seal it up and send it in here and the Court would have to read it and consider that. I have gotten some mail during the trial that newspaper clippings and everything else, should I file those in the court record?

MR. SCHIFFER: I have got my share of threats through the mail, too, Judge, in places pretty far distant from here. However, in support of the original motion on this suppression, your Honor, your Honor gave me specific permission to file an additional exhibit and I believe it is in the record. I know it is in the record that I could file any additional exhibit at the time when we reach the

suppression matter.

THE COURT: If you wish to open this and return it to the Court you may do so. The Court has no procedure for filing--

MR. SCHIFFER: (Interposing) Your Honor, I submit this to the Court and if the Court does not want to open it then I submit that we leave it in its present state and mark it as an exhibit and should the necessity arise for this to be examined by a Court up above.

THE COURT: All right--

MR. SCHIFFER: (Interposing) And I state for the record and I state for the record so far as my information is concerned that the defense feels that the government counsel have embarked on what is virtually outlawry against the defendants; it is the obligation then of defense counsel in properly and adequately and constitutionally defending their clients to present to the Court any such evidence and that counsel in this case myself I brought Mr. Spindel to this city as an aide to the Court not as an aide to me, but if there was illegal surveillance the Court should know of it because if there was and the Court should so find from all the evidence in this entire case is a nullity actually and it is for that reason, your Honor, that I have brought Mr. Spindel and he is here to help the Court. If the Court refuses the assistance of that nature I can do nothing else

but ask that it be--

THE COURT: (Interposing) I appreciate that he is here to help the Court, yet you say you have no knowledge of the contents of the envelope; how can you represent he is here to help the Court?

MR. SCHIFFER: Simply this, when you come to Chattanooga and find there is no surveillance, you pack up and go home. If you find that there is surveillance there is only one party I want you to report to by a sealed document that is to the Judge presiding in this very trial. I submit, your Honor, I know him to be a man of intelligence and experience, that what is in this envelope like the other envelope which your Honor unsealed and made a part of the record in this case does, in fact, contain material which shows surveillance by the FBI and at the behest of the government counsel.

Now, then I say Mr. Spindel submits this through me and I give it to the Court as an aid and assistance to the Court to prove the outlawry practice by the government agents in this case. That if the Court is satisfied after examining this document and hearing all the testimony and the evidence on this one issue, of illegal surveillance, that should the Court so find then all the defendants have in fact been deprived of their constitutional rights from a time before the trial started and during the progress of

8 - 5

this trial, and so far as I am concerned I know I am being surveilled to this very moment despite the representations made by the government counsel, despite any affidavit they want to put in by an FBI man.

And so I say, your Honor, I respectfully tender this sealed document for the perusal by the Court and as an aid and assistance to the Court on the issue of surveillance. If your Honor feels you do not want to open it as you have indicated before I ask that it be kept and preserved in its state as it is now and marked as an exhibit in this case and that the Clerk be directed to keep it in its present state as a sealed document.

End Tk 8
Tk 8A fls.

THE COURT: All right, sir. What exhibit number will this be?

THE CLERK: No. 244.

(The document referred to above by the name of Spindel was marked for identification as Exhibit No. 244.)

MR. NEAL: Your Honor, in view of making this a part of the record, I think it would be important for the record to know whether any counsel is representing that he does or does not know the contents.

MR. SCHIFFER: I have already made the representation the first time when we put the other exhibit in, I make the representation now that Mr. Spindel was under instructions from me that if he found no surveillance and then to pack up and go home. If he found surveillance to make up a report and submit it in a sealed envelope to this Court for this Court's perusal and nobody has read that document except Mr. Spindel, who prepared it, and the only other person to see that what is contained in that envelope will be your Honor.

MR. NEAL: Now, Mr. Schiffer is making a representation he doesn't know what is in the contents of the envelope?

MR. SCHIFFER: I don't know what is in it. I haven't seen the report. The report is sealed.

MR. SILETS: If Mr. Neal will allow me, I will state that for the record and if Mr. Neal wants me to take

the witness stand, I will state it under oath.

MR. NEAL: I don't want you to take the stand.

THE COURT: Is it the position of counsel for each defendant that no counsel knows what is the contents of-- have any defendants read--

MR. REDDY: (Interposing) It is marked for identification, as I understand?

THE COURT: Yes.

MR. SCHIFFER: May we have the number, please, your Honor?

THE COURT: Exhibit No. 244.

MR. HOOKER: I think if it is going to be filed and just lie here as a part of the record the Court ought to look at it and see what it is and not have some undisclosed thing here filed as a part of the record in this case to be unopened.

THE COURT: I am totally unfamiliar with this sort of procedure, gentlemen.

MR. HOOKER: Opened at a later time, you have no idea what is in this thing. I don't like the inferences about it.

MR. SCHIFFER: Well, the point is, your Honor gave me permission to file this very document, I asked for permission on the record.

MR. HOOKER: I think he ought to look at it.

MR. SCHIFFER: Not for anybody to look at but the Court.

THE COURT: Why the Court should open sealed envelopes in a lawsuit in which no one that is a part of the lawsuit and no one who is an attorney for the lawsuit has any knowledge of its contents just completely escapes the Court. If that procedure were to be followed then, gentlemen, as I say, a judicial procedure, it would seem to me would become a complete farce and everyone could just come in and file anything under the sun in a sealed envelope and say I don't know what this is, but I want your Honor to read it.

MR. HOOKER: If it is not going to be read it ought not be filed.

THE COURT: I have to read all that material, I take it you could file the Library of Congress and seal it and require the Court to read the Library of Congress.

MR. SCHIFFER: Except this, your Honor, except this that the charge has been made here by the motion of surveillance and that we are in a very serious issue here because the government has been surveilling the defense counsel and the defendants and their witnesses, your Honor, then constitutionally this is a void trial. It is that serious an issue. This is no laughing matter. This is something where the defendants are accusing the government here of depriving them of a fair trial. This is a constitutional

issue. This is a basic guarantee. This is no laughable matter. Now, if the Court should find from whatever the Court can receive assistance, your Honor, I maintain anything which assists the Court in coming to a determination on a constitutional issue as it affects defendants charged with a serious crime.

THE COURT: Mr. Schiffer, suppose you do this, suppose you find some authority for your proposition. You find some authority and cite the case to the Court, some authority for this sort of procedure.

End Tk 8A
Tk 9 fls.

Tk 9 Hl

MR. SCHIFFER: May I say this, Your Honor, I know of cases, I am going to try to look them up during the lunch period, but let me say this, I am sure Your Honor is aware of a line of cases that in a criminal case if the Court receives any information which can be helpful to the Court in making the determination and it is submitted by defense counsel, I believe, and I say this most respectfully, I believe that the Court has an obligation.

THE COURT: Why are you unwilling to examine it yourself and determine whether it has any relevancy and if it does then submit it to the Court?

MR. SCHIFFER: For a very obvious reason.

THE COURT: What obvious reason?

MR. SCHIFFER: The very obvious reason is what Mr. Neal tried to point out to Your Honor in chambers when Your Honor opened the last envelope. What he wants to find is a violation of 605 of the Federal Communications Act. What he wants to find is that Schiffer divulged or Bernard Spindel did something and then he divulged it to me. They will never see me in that position.

THE COURT: Well, do you mean this, do you say this is illegal testimony?

MR. SCHIFFER: This is legal testimony if it aides the Court in discovering a violation of the constitutional rights of a defendant and I say in addition,

not only is it a right that is guaranteed to a defendant but the Court has the obligation under these circumstances where the charges made that the government has engaged in outlawry that the Court seeks, as the true arbitrar in this situation, to make things right and if it finds there has been such surveillance that the Court can take its information from any source and if that issue is proved there is no trial but a void trial here. That would have to be the Court's determination on such a finding.

MR. REDDY: Your Honor, I don't know of any procedure such as this to hand up sealed documents to the Court. The only provision that I am familiar with about sealed instruments or documents, of course, as Your Honor is familiar with, is in connection with the Jencks statute. This is not offered in the nature of a Jencks statement.

As Your Honor says, if Schiffer can hand up this sealed document why not just let everybody come in and hand the Court a sealed envelope and say, "We think this is something Your Honor ought to open and read."

MR. SCHIFFER: The government has done it here and concealed from us that it gave it to the Court and when we found out what was in the thing that the government concealed, in one sense from the Court and from the defendants, we found the proof that their star witness committed perjury here, that's what they did with the sealed

document.

THE COURT: Well, Mr. Schiffer, there was a clear provision in the law for exactly what was done in each instance in that respect and I am just asking that you cite to the Court the law for what you are proposing to do here.

MR.NEAL: The government has--

MR. BRANSTETTER: (Interposing) May it please the Court, may I be heard just one moment please?

THE COURT: Yes.

MR. BRANSTETTER: I am by nature inclined to try to get to the heart of the matter and stop this sparring around. The problem here is very, very simple, and it is this: There is a question under 605, very frankly I think the law is contrary to what others think it is. I think the divulgence of what I assume, and this is certainly an assumption, is contained here, I would open it if it was up to me and say, "Here, if Your Honor please, read it." I am not stating that I know all of the law on the subject or that anyone should be forced to run any risk. If there is evidence that is appropriate here there's no need of the Court or counsel for the government or counsel for the defense sparring around and saying this and that and the other. If this should show illegal surveillance then it's the obligation of the Court, it is the obligation of the government, it's the obligation of the defense to look and

see.

THE COURT: I think that is exactly correct, Mr. Branstetter. I think the defendants ought to examine this and if they consider it relevant then they ought to submit it to the Court.

MR. BERKE: If the Court will give me permission I will examine it.

THE COURT: Beg your pardon?

MR. BERKE: If the Court will give me permission I will be glad to examine it under orders.

THE COURT: It's not a question of permission, it's a question of--, it's the defendants exhibit, they can do with it as they please.

MR. HOOKER: We have no objection. Let him look at it.

MR. NEAL: Wait a minute, Mr. Hooker, wait just a minute.

MR. BERKE: That's right. If the government gives me permission I will do it.

MR. NEAL: We are not giving any permission either, I tell you the thing that was submitted to the Court I wasn't afraid to say I knew what was in the contents, we have never brought a man down, put him to do some work saying I know his expertese, I brought him down and I put him on to this. I have a sealed document that is supposed to be a

result of his work but I am afraid to look at it.

MR. SCHIFFER: That's what Mr. Neal just said and what he said before Judge Gray, he knew Partin when he testified was perjuring himself, he had the physical documents and hid them in a sealed envelope and then gave them to Your Honor and hid them there, kept the contents from you, kept it from the defendants when he knew that the physical evidence refuted and showed his star witness was perjuring himself and he, as government counsel, put a perjurer on the stand knowingly. If that is due process of law, Judge, we have finished with justice in this country.

If a Court will countenance this kind of activity--

MR. BERKE: (Interposing) May I suggest to the Court that the constitutional rights of a defendant to a fair trial has been so delicately guarded by the Court and so jealously looked at by the courts that the courts will go out of the way to determine if those constitutional rights have been violated.

We do not think that the Court should permit, if a member of this court, an attorney who is an officer of the court represents to the Court that according to his information this does pertain to the very question that the Court is seeking to determine, that the Court should not permit the envelope to remain sealed, that the Court should either look at it or give someone else permission under the

orders of the Court to look at it, which I will be glad to do if the Court will, and I will be glad to do as Mr. Hooker says, it's all right for you to read it, Mr. Berke, but Mr. Neal countermanded that immediately because they don't want that information to become available and, of course, Mr. Neal knows that none of the counsel are permitted to have this information under the law as some of them, at least, construe it. They don't want to even take that chance, but the Court can give that permission. Mr. Neal or Mr. Hooker or Mr. Reddy can give that permission and if we are looking for the truth, and that is what this Court is looking for, if we are looking for the truth why don't they give that permission?

I will be glad to read it. I don't know what is in it. I will be glad to read it.

THE COURT: The envelope is there. Any defendant can do as they please with it.

MR. SILETS: May I suggest to the Court if the government will give me permission to call Mr. Spindel for the limited purpose of inquiring about just this envelope, I don't want to put him on for all matters, that is why I would like to proceed with the FBI, but since this issue has been raised, it is his envelope, if the Court would call him as the Court's witness.

THE COURT: The Court is not calling any witness.

MR. SILETS: Well, then, if the Court would give

& 9-7

me--

THE COURT: (Interposing) I don't know why the defense thinks that the Court should do this sort of work. If this is an envelope that should be opened and should be presented to the Court then open it and present it to the Court. On the other hand, if you don't think it should be opened, if you think it's a violation of law to open the envelope, then don't ask the Court to do something for you that you think would be a violation of law for yourself to do.

Now, gentlemen, let's quit beating around the bush on this matter. If you gentlemen think that you have got something lawful for the Court to consider then submit it in a lawful manner, but do not try to operate under some sort of a guise of telling the Court to do something which you think would be unlawful for you to do.

End 9
Tk 9A fol

Tk 9a-DC1

MR. SCHIFFER: May I say --

THE COURT: (Interposing) Let's proceed, gentlemen.

MR. SCHIFFER: May I --

THE COURT: (Interposing) I have heard enough, gentlemen, on this matter. Let's proceed with the trial of this lawsuit.

MR. SCHIFFER: I want to present -- I want to present one point, your Honor. There is no reason why we are trying to --

THE COURT: (Interposing) Mr. Schiffer, I have heard enough on this matter. If you wish to submit this to the Court, you submit it to the Court, but do not ask the Court to do something that you are unwilling to do yourself because you are fearful that it is a violation of the law to do so.

MR. SCHIFFER: No. Mr. Neal threatens me with an indictment. I want to meet Mr. Neal under the proper auspices. I don't take his threats.

THE COURT: Just have a seat.

MR. SILETS: May it please the Court, I'd like to make some opening comments concerning the motion.

THE COURT: Yes, sir.

MR. SILETS: Mr. Neal this morning made reference to certain matters occurring in the House of Congress and I

9a-2

believe Mr. Neal's superior, Assistant Attorney General Herbert J. Miller. I am now reading, if the Court please, I'd like to read into the record from this morning's Chattanooga Times, page 9, March 4, 1964, an Associated Press copyrighted story headlined, "Surveillance Charge Denied to Senator. Washington. Associated Press."

End 9a
10 fls

Assistant Attorney General, Herbert J. Miller, Jr. has denied a charge that FBI agents have kept Teamsters Union President James R. Hoffa under surveillance during his jury tampering trial in Chattanooga.

In a letter to Senator Hiram L. Funk, Republican from Hawaii, Miller replied to charges by Sydney Zachary, legislative counsel for the union that Hoffa, his co-defendants, their attorneys and defense witnesses had been kept under almost continuous surveillence. Miller's letter published in Tuesday's Congressional Record said this is what, this is why I am reading this, all protest raised by Mr. Zachary have been ruled upon by the Court. Zachary charged the use of gestapo tactics but Miller said Zachary's allegation that Mr. Hoffa is being denied due process because of alleged surveillance by the government appears to be an attempt to influence the course of his present trial.

Fogg asks that both letters be referred to Senator James J. Urban, Jr., Chairman of a Senate Judiciary Sub-Committe on Constitutional Rights.

I suggest that is the end, now, Your Honor, I suggest that Mr. Neal this morning has suggested to the Court that they have had ten days and they haven't done anything and his immediate supervisor in charge of the criminal division responds to the House Senate--

THE COURT: (Interposing) Now, gentlemen, this

is a judicial proceeding. We are not here for the purpose of reading newspapers. As to what Congress desires to do that addresses itself solely to Congress. As to what is competent in the court addresses itself to the Court. Let's proceed with a judicial proceeding and present judicial testimony and judicial evidence in the case.

MR. SILETS: Yes,sir.

THE COURT: And leave Congress in their wisdom to what they think should be done with any matter that might be before them.

MR. SILETS: The only reason I read this, Your Honor, and it is for the sole reason of introducing single quotation from the Assistant Attorney General, Mr. Miller, Mr. Neal said that they had not yet decided whether they were going to invoke Title 5, United States Code, Section 22. I suggest to the Court that Mr. Miller in charge of the criminal division has already concluded as to this matter because he stated that in his opinion that all the matters raised here have been ruled upon by the Court.

THE COURT: Well, now, if the Court is going to act upon newspaper stories in trying lawsuits--

MR. SILETS: (Interposing) If the Court will give me leave--

THE COURT: (Interposing) It would be beyond anything that this Court has ever known.

MR. SILETS: I will obtain a copy of the Congressional Record in answer to Mr. Neal's suggestion as to whether they are going to--

THE COURT: (Interposing) Sir, let's just proceed with the judicial hearing.

MR. SILETS: Now, Your Honor, if I may proceed the government's response to motions for mistrial on the grounds of surveillance filed sometime I believe Mr. Neal correct me, sometime in the week of February 23rd? Excuse me. I believe it was filed Wednesday, February 5, 1964, that is according to my notes. The following paragraph is set forth. One. In the course of this trial the Federal Bureau of Investigation has not ceased such lawful and necessary investigative activities as are pertinent to the proper execution of its duties.

In this regard it should be noted that similar lawful investigative activities in the course of the Nashville trial resulted in the cogent evidence of obstruction of justice presented in the course of this trial by agents of the Federal Bureau of Investigation at Pages 2576 to 2645 of the transcript.

Now, deviating from this quotation Your Honor, I assume the government is referring there to the surveillance testimony introduced against the Defendant King.

The government continues. Experience during the

Nashville trial involving this same incident particularly as concerns the participation of Oscar Pitts who testified at Pages 2655 to Page 2798 of the transcript also disclosed that lawful investigations would have been facilitated substantially by identificatory photographs of persons repeatedly present in and about the courthouse or on the public streets.

Now, Your Honor, again deviating for the moment the government furnished when Mr. Pitts testified an FBI report dated 3-14-63--

MR. NEAL: (Interposing) Would you read the rest of it?

MR. SILETS: I haven't finished, Mr. Neal. In the FBI report submitted by special agent William L. Sheets Pitts indicated in this March interview that he had apparently gone to the courtroom during the course of the trial. Now the inferences that the government is drawing is that if they had been able to take Mr. Pitts' photograph and the photograph of everybody else who had gone into the courtroom they would have known more and it would have assisted them and they would have been able to get to Pitts before the first time that they actually did get to Pitts.

To repeat this quotation, would have been facilitated substantially by identificatory photographs of persons repeatedly present in and about the courthouse or

on the Nashville streets.

I'm advised, Your Honor, that there are some agents in the courtroom. May they be excluded? Especially Mr. Sheets, I think he is under subpoena. Or Mr. Schultz. They are all under subpoena.

MR. NEAL: Schultz?

MR. SILETS: Carl Schultz. William L. Sheets.

He sure is.

End 10
10A fol.

THE COURT: Any witnesses that have been subpoenaed in the case if we are now ready to proceed with the examination of witnesses, are you ready to proceed with examination of witnesses?

MR. SILETS: I would like to finish my introductory remarks concerning the motion, but I would like the witnesses excluded.

THE COURT: Any witnesses under subpoena may be excused.

MR. SILETS: In other words the government is saying that --, your Honor, of course it is understood that these remarks are remarks which are evidence in support of our motion and our contention is again, your Honor, the government says that if they had been able to take photographs of people in and around the courthouse and on the public streets it would have assisted them in their investigation.

Then they say, concluding, paragraph 1, page 2, of the response to the motion for mistrial on the grounds of surveillance, consequently, such photographs were taken at the outset of this trial, meaning U. S. versus James R. Hoffa et al, Criminal No. 11,989, even such activity was limited to the period prior to the impanelment of the jury.

Now I assume what they mean by the impanelment of the jury is the swearing in of the jury because their affidavits attached to this response indicates by their own

admission that the surveillance was conducted through and including January 27th, and in addition from February 3 through February 6.

Now it is of record in this case that the start of this trial in fact commenced on February 20, and --

THE COURT: (Interposing) January 20.

MR. SILETS: Excuse me, your Honor, on January 20th. And by their own admission this photographing and surveillance of persons going in and out of the courtroom and the courthouse and the public streets in an area surrounding the courthouse occurred by their own admission at the very least from January 20 through January 25 through January 27. That means the government has admitted taking the pictures of all prospective jurors and the entire voir dire panel coming into the courthouse.

Now I suggest to your Honor this, if the reverse was true and the defense had done that, would this under Section 1503, the latter portion of the section, constitute an obstruction of the due administration of justice?

Now I suggest to your Honor this, that if a due obstruction of a due administration of justice has occurred by the government that that illegal act would, of course, constitute grounds for a mistrial. In addition to the fact that this surveillance having occurred.

Continuing, the government says however agents of

the Federal Bureau of Investigation were expressly instructed in this case that observations or surveillance of defendants or defense counsel should not be conducted at any time as the attached affidavit establishes these instructions were followed without exception, without exception, other than incidental appearances in public of any defendants or defense counsel in association with persons under surveillance.

Now I assume that if the government sought to conduct a surveillance of any particular defendant and if they wanted to justify that surveillance they need only say that they were conducting a surveillance of somebody they knew would be constantly in the presence of one of the defendants. Close associates, secretary, a wife, child, and by that means justify the surveillance and say that well we saw Hoffa on the street and we took his picture and we followed him all around Chattanooga, but that was only incidental because he was in the presence of James or Charles O'Brien.

Now, your Honor, in paragraph 6, reiterating this by saying that it was not the purpose or the intent of the agents in these instances to observe the actions of defendants or defense counsel. We will establish by our proof that this is an inaccurate statement and in support we first offer in evidence the entire government's response to motions for mistrial on the grounds of surveillance including all of the

attached affidavits. It has been filed by the government as a document in this record but since it is a response and a memorandum we seek now that it be marked as evidence. Now it should be in the Court's files somewhere.

THE COURT: Are you referring to government response to photographs alleged to be efforts of illegal surveillance which response was marked filed by the Clerk on February 15, 1964?

MR. SILETS: No, sir, I haven't even seen that one. Do you have a copy of it, Mr. Neal? I'm talking about the one that was filed on February 5, 1964, containing some 25 or 26 affidavits.

End 10a
11 fls

I have been handed a copy of it, your Honor, if the Court can't locate it.

THE COURT: I am unable to locate it.

MR. SILETS: So we may have this filed as an exhibit.

THE COURT: Will this be filed as an exhibit, have an exhibit number?

MR. SILETS: If that is how the Court wants to handle it. It could be Exhibit 1 on the motion for surveillance or it could be Exhibit 244, whatever is next.

THE COURT: I think we will just proceed numerically.

MR. DALE: 245, your Honor, collectively.

(The documents referred to above were marked Collective Exhibit No. 245 for identification only.)

MR. SILETS: The defense calls Special Agent Ingram.

THE COURT: All right.

MR. BERKE: If your Honor please, my associate, Mr. Haggerty, doesn't feel very well and had to leave; we would like to apprise the Court of that fact.

THE COURT: All right. Mr. Dale, may we have the witness sworn?

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case

shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. INGRAM: I do.

MR. DALE: Have a seat, sir.

EVERETT J. INGRAM,

a witness called at the instance of the Defendant Dorfman, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir, and spell your last name?

A My name is Everett J. Ingram (spelling) I-n-g-r-a-m.

Q What is your occupation, Mr. Ingram?

A Special Agent in Charge, Federal Bureau of Investigation, Knoxville, Tennessee.

Q Mr. Ingram, you are appearing pursuant to a subpoena duces tecum served upon you, is that correct?

A That is correct, sir.

Q Now, pursuant to that subpoena, did you bring certain records with you?

A Yes, I did.

Q May we have them, sir?

MR. NEAL: Your Honor, we have got a motion to quash. We respectfully request that it be ruled upon.

THE COURT: Well, file the exhibits with the Court.

The Court will examine them in accordance with the procedure we have mentioned.

MR. SILETS: Your Honor, I can't proceed until I have seen the documents.

THE COURT: Well, then, gentlemen, we will just have to take a recess until the Court has an opportunity to examine them.

MR. SILETS: May the witness be cautioned not to discuss his testimony, your Honor?

THE COURT: All right. Do not discuss your testimony with anyone or allow anyone to talk about your testimony. Let's be in recess for at least 10 minutes.

MR. SILETS: One question, your Honor.

BY MR. SILETS:

Q Are the documents in the sealed envelope given to the Court just now by you, Mr. Ingram, the documents which were subpoenaed?

A These are the documents covering the reports of the individual agents who participated on the surveillance conducted here in Chattanooga.

Q And what about the travel authorizations?

A There were no travel authorizations. All the travel was ordered orally by telephone. The only written authorization for travel was a radio communication from Washington advising that Special Agent William L. Sheets from

Memphis would come to Knoxville in the early part of January to assist in the case. It had nothing to do with the surveillance. I did not bring that, it is en route down here from Knoxville now, but it was not in connection with the surveillance.

Q But otherwise the documents in this envelope are the precise documents subpoenaed of you?

A Yes, sir.

THE COURT: All right.

MR. SILETS: Well, your Honor, may I ask one other question?

THE COURT: Yes.

BY MR. SILETS:

Q Who made the radio communication directing the transfer of these agents down?

MR. NEAL: Just a moment. We object to that as being irrelevant, who made the radiogram or whatever it is.

MR. SILETS: He just stated that he got a radio communication to send the agents down here, he stated it himself.

MR. NEAL: He said he got this, he said there was a record, the only record of travel authorization was one involving Mr. William Sheets who came down in early January .

MR. SILETS: Oh, no, no, he said --

BY MR. SILETS:

Q Mr. Ingram, didn't you say that there was no travel records because there was a radio authorization to send agents down?

A No, sir, I said that the instructions were given by telephone.

Q All right. Who gave those instructions?

MR. NEAL: I object, objection. It's irrelevant to the hearing who gave him instructions.

MR. SILETS: If your Honor please, this is highly relevant because it relates to the matters as to who was here, when they were to be here, how long they were to be here, and that individual obviously might have information that this gentleman doesn't. It is pertinent.

THE COURT: Well, let's examine these records first and then we will see where we stand. You may be excused.

THE WITNESS: Thank you.

(Thereupon, at 10:55 o'clock, a.m., a recess was had.)

End 11
11a fls
11a

THE COURT: The reporter was asking who the witness is called by. He was called by Mr. Silets.

MR. SILETS: On behalf of all defendants.

THE COURT: On behalf of all defendants. Where are the rest of the government counsel?

MR. HOOKER: Tell Mr. Neal and Mr. Reddy. I don't think they knew that your Honor had come in.

End 11a
12 fls

MR. SILETS: Your Honor, I have just been told that some of the counsel don't want me to represent them in examining this witness, so I call him just on behalf of Dorfman.

THE COURT: All right, gentlemen, I think this that we ought to understand here what the purpose of this hearing is for. The purpose of this hearing is to determine whether or not there has been such surveillance of the defendants and of their counsel as to interfere with the defendants' right to counsel in the case.

These exhibits which have been filed by the Witness Mr. Ingram are totally unrelated to any surveillance of any defendant or any surveillance of any defendants' counsel or in any manner related in any way to any interference with the right of any defendant to advice of counsel.

We are not here on just a broad discovery procedure. Now, it is obvious that the defense have made no examination and no inquiry of this witness and apparently of no FBI agent and are seeking to proceed generally into the investigative activities of the FBI. That is not the purpose of the hearing. The purpose of the hearing is to determine whether or not there has been surveillance of a defendant or of defendants' counsel in such manner as to interfere with the defendants' right to counsel. And this proceeding will be limited accordingly.

MR. SILETS: Now, your Honor, I would like to be heard on this. I have subpoenaed this witness and other witnesses to bring their reports of the agents pertaining exclusively to their assignment on this surveillance. Now, I don't know what this man has produced for the Court that leads the Court to conclude that the defense is on a fishing expedition.

THE COURT: Well, in all these exhibits that have been submitted here there is not a single report that in any way refers in any way to any surveillance of any defendant or any defendant counsel. And we are not going in, as I say, into the general investigative activities of a law enforcement agency that is unrelated to the issue which we have for hearing. And the issue which we have for hearing this morning is whether or not the defendants have been deprived of the right to counsel.

MR. SILETS: Well, your Honor, then this man has not complied with the subpoena and I will proceed to inquire. I would like to have that marked, that exhibit the Court--

THE COURT: (Interposing) Well, it may be filed as a sealed exhibit. The Court will have to make arrangements to seal it and then file it.

BY MR. SILETS:

Q Do you have your subpoena with you?

A I had it this morning. One of the attorneys

borrowed it momentarily.

Q Do you know what you were requested to bring to this court pursuant to that subpoena?

A Yes, sir.

Q Will you tell the Court what you were supposed to bring?

A I was supposed to bring any travel authorization pertaining to agents who were assigned or sent to Chattanooga to investigate this matter.

Q What do you mean this matter?

A The Hoffa matter. The Hoffa case.

Q The trial, United States vs. James R. Hoffa, Criminal No. 11989?

A Yes, sir. And also any reports that those agents prepared in connection with any investigative activity they participated in.

End Tk 12
Tk 13 fls.

MR. NEAL: Excuse me just a moment, Your Honor. I move to quash all of that except as it relates to surveillance.

MR. SILETS: Do you have his subpoena, Mr. Neal?

MR. NEAL: It is attached to the original motion to quash. The only problem here--, I don't know what investigation has been made, but if it doesn't relate to surveillance--,

THE COURT: (Interposing) Well, if it does not pertain to the defendants or to the defendants counsel we are not going to go into it and the witness will not be allowed to answer in regard to such matters.

BY MR. SILETS:

Q Now, Mr. Ingram, there were, in fact, agents assigned with respect to the case that has just been on trial in this courtroom.

A There were agents assigned to this, the surveillance, yes.

Q All right. Then, in fact, there was a surveillance.

A Yes, sir.

Q Now, were there reports with respect to that surveillance?

A The agents made daily reports covering their observations and they are in the envelope that has been turned over to the Court.

MR. SILETS: Your Honor, based upon that question and that answer, it seems to me that this is no fishing expedition, this is precisely the matter as the Court has explained the issue to be.

THE COURT: Well, the Court has also explained there is not a single report in here that refers to any observation of the defendants or their counsel or in any way relates to the issue of whether the defendants are in any way deprived of the right to counsel.

MR. SILETS: I will proceed with my examination and see if I can establish this.

MR. BRANSTETTER: May it please the Court, might I suggest that in light of that would it not also include whether or not counsel and defendants were surveilled in the process of checking with or going to see or in preparation of this case with witnesses or others?

THE COURT: Well, the Court has ruled, gentlemen, on the documents tendered.

BY MR. SILETS:

Q Mr. Ingram, to start back a moment, you said you received a radio or a telephone communication to send agents to Chattanooga.

A I had authority to send agents from Knoxville down here. I am in charge of the division that includes Chattanooga, I had to receive no authority to send agents

from Knoxville to Chattanooga.

Q Did you do that on your own authorization?

A Yes, sir.

Q You mean that there was no investigation begun, you began it yourself?

A No, I didn't say that. I had the authority to send agents down here without asking someone else.

Q Yes,sir. But did you in this particular case send the agents down on your own volition or was it pursuant to some instruction?

A We had authority to start a surveillance. When we received that authority then I sent as many men as I could spare from Knoxville down here to participate in it.

Q When did you receive the authority to conduct the surveillance?

A The first authority was received on January the 16th.

Q And from whom?

MR. NEAL: Object to that, Your Honor.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q And what was the--, state, to the best of your recollection, the substance of the authority.

A The authority was to institute a surveillance on Mr. William A. Test in Chattanooga.

Q And did you have any information that Mr. Test was going to be in Chattanooga?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Did you know that he was going to be in Chattanooga?

MR. NEAL: Same objection.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Did you have authority to conduct a surveillance of anybody else?

A Not at that time.

Q And you received such authority at a later date?

A That is correct, sir.

Q And authority with respect to whom?

A To George E. Hix, Mr. John Cleveland.

THE COURT: Now, gentlemen, I don't think that it is appropriate here to go into persons that are not defendants or are not attorneys and I have so ruled and I am going to continue to so rule. We are not going into an investigation of the FBI activities with regard to persons that are not defendants or are not attorneys for defendants.

MR. SILETS: Your Honor, may I point this out to the Court, it is our position that among other things that the government has used this as a ruse, a method by which

they could surveil the defendant Hoffa and other counsel in this case by picking a person they would know to be in Chattanooga.

THE COURT: You can ask him any questions you desire about surveilling any defendants or any defendants counsel but you will not be permitted to ask him questions about persons other than the defendants or other than the defense counsel.

MR. SILETS: Well, Your Honor--

THE COURT: (Interposing) I believe that instruction is clear.

MR. SILETS: Yes, sir. May I inquire then of the Court, is it not true there would be an interference with due process and interference with counsel on and under violation of the Sixth Amendment if there was a surveillance of witnesses?

THE COURT: Well, you can ask him about any witness then that testified for the defense in this case.

MR. SILETS: Well, that assumes that he has knowledge of every witness.

THE COURT: Well, you can ask him, you have knowledge of who testified.

End 13
14 fol.

THE COURT: The Court will state again that there is absolutely nothing in these records that refers in any way to any witness in this case.

MR. SILETS: Will the Court state for the defense's knowledge, your Honor, that the name Hoffa or the name Dorfman or any other defendant in this case or counsel is not in those reports?

THE COURT: No, sir, there is no reference to any defendant or any defense counsel involving any surveillance and that relates in any way to the attorney-client relationship. Or there is no surveillance of any witness in this trial of this lawsuit or any person that testified in the trial of this lawsuit to the Court's recollection.

Now I wasn't specifically having that in mind at the time that I examined them, but I will re-examine them for that purpose. But I have no recollection of any witness being mentioned in any report.

BY MR. SILETS:

Q Mr. Ingram, in these reports were code names used?

A Not in those reports, no.

Q Was there any title used for the name Hoffa? Like the man or the big boy?

A In these reports?

Q Any reports.

A I think you should be more specific just what you

have reference to.

Q Do you have any doubts about the question?

A Yes, I do.

Q Where is your doubt?

A I don't know what report you are referring to.

Q Pertaining to the surveillance and these are the agents' daily reports on the surveillance? In the course of that surveillance did they not observe the Defendant Hoffa?

A I am sure they saw him on one or two occasions.

Q Just one or two occasions?

A That I recall, yes, sir.

Q And did they not report as to his movements?

A Only as they related to the person that was actually under surveillance at the time.

Q All right, now that was contained in a daily report?

A The daily report covers the man that you are surveilling and they are not going to put a lot of extraneous material in there about someone who is not under surveillance.

Q Do you mean to say that if they saw Charles O'Brien on a particular date and he was in the presence of Hoffa they wouldn't say that he was in the presence of Hoffa?

A They might and they might not.

Q All right, did they in these reports?

A I don't know specifically.

Q Would you like to examine them?

A It would take a little time.

THE COURT: The Court has examined the reports and has stated for the record their relevancy. They are not relevant. Let's proceed to some matter relevant to this hearing.

BY MR. SILETS:

Q How many agents were sent down on surveillance?

A Eight agents were used from Knoxville. We have agents here normally. Some of them were used.

Q How many?

A Eight.

Q Eight assigned to Chattanooga?

A Were used. Three from Charlotte, North Carolina, were used for two days. Three from Atlanta were used for two days. And two from Memphis were used for two days. Not counting Mr. Sheets, who has been here during the entire trial.

Q Have I got this right, eight, eight, sixteen, twenty-five agents?

A That's right, counting Mr. Sheets.

Q Now were you in Chattanooga?

A Part of the time I was.

Q When were you in Chattanooga?

A I was in Chattanooga on January 16th. When the

surveillances began. I was in Chattanooga on February 4th and part of the 5th; part of the 4th and part of the 5th while one of the surveillances was in operation.

Q Now, sir, isn't it true on January 16th you had an agent following me?

A Absolutely not.

Q All right. You don't have any record of an agent following me from the Patten Hotel to the Maclellan Building where the law library is?

A You have not been under surveillance at any time before or during this trial.

Q Now was there a William Test as an agent?

THE COURT: Gentlemen, I have just instructed you with regard to sticking to the issues in this lawsuit.

MR. SILETS: This, your Honor, your Honor is restricting me because they say in their own affidavits that they were keeping certain individuals under observation and those individuals were in the presence of Hoffa and his lawyers and everybody else. And their answer is well, this was incidental. Now we are trying to establish that it wasn't incidental. This is the heart of the issue.

THE COURT: I believe my instructions are clear, gentlemen, we are not here on a fishing expedition to determine how the FBI operates with reference to persons other than the defendants in this case and their counsel and relating

to issues other than the issue of whether there has been interference with the attorney-client relationship.

BY MR. SILETS:

Q Mr. Ingram, how many times was Mr. Hoffa observed by your agents?

A I recall one incident when Mr. Test was under surveillance. He went out to the airport. Mr. Hoffa landed that day and Mr. Test got in the car with him and we immediately dropped the surveillance. We did not follow that car into the hotel.

Q All right. What other incident did you see Hoffa?

A There was another incident when Mr. Spindel or a person believed to be Mr. Spindel with the automobile that Mr. Spindel was known to have driven over here from Nashville was seen loading some cartons or cases into the car and at that time --

Q (Interposing) Where was that?

A By the side of the Patten Hotel.

Q Loading cases into a car?

A That's right. That was on February 6. And at that time I understand that two persons believed to be Mr. Hoffa and Mr. O'Brien came out and were in and around the car at that time. But the surveillance was of Mr. Spindel.

End 14
15 fls

Q Isn't it true you took a picture of Mr. Hoffa?

A We have never taken a picture of Mr. Hoffa over there at the loading of a car at the hotel.

Q Have you ever taken a picture of Mr. Hoffa during or before this case in Chattanooga?

MR. NEAL: Objection. Object to that, your Honor. Did you ever take a picture of him?

THE COURT: Sustain the objection.

MR. SILETS: In Chattanooga. That is limited.

THE COURT: All right.

BY MR. SILETS:

Q In Chattanooga, Mr. Ingram?

A We have taken a lot of photographs around the Federal Building and the Patten Hotel and he, I am sure, appears in a few of them.

Q How about the other defendants in this case, have they been photographed?

A They appear in a very few of them, a very, very small percentage of the photographs that were made.

Q Yes or no. Haven't they been photographed?

A Yes. They, not individually, but in group of pictures.

Q How about the defense counsel, have they been photographed?

A Some of them have, yes.

Q Have any not been photographed?

A I don't recall that Mr. Schiffer has been photographed.

Q Now, Mr. Ingram, Mrs. Mattie Mix was under surveillance when she came to Chattanooga, wasn't she?

A No, sir.

Q Do you know Mattie Mix?

A No, I do not.

Q Have you had any reports about Mattie Mix?

A No, I do not.

Q Now, how many pictures were taken of the defendants and their counsel throughout your surveillance?

A I would have to give you an estimate. We made several hundred photographs all together. As I recall, Mr. Hoffa appeared in only 14 of those photographs.

Q You counted those?

A Well, there were 700 photographs and he only appears in only 14.

Q You made 700 photographs in a period of how many days?

A Seven hundred twenty-three, to be exact.

Q How many?

A Seven hundred twenty-three.

Q And you reviewed those before you took the stand?

A I reviewed them some time ago.

Q All right. How many times do I appear in the photographs?

A I don't recall but it's less than--I would say less than ten, possibly four.

Q And what about Mr. Berke?

A Mr. Berke four or five times.

Q Mr. Marvin Berke?

A About the same as his father.

Q Mr. Cecil Branstetter?

A About the same, five or six possibly.

Q Mr. Allen Dorfman?

A Mr. Dorfman, as I recall, appeared in 15 photographs.

Q Mr. Thomas Ewing Parks?

A About ten--no, I am thinking about Mr. Ewing King--Mr. Parks, these are estimates, five or six, I would say.

Q Mr. Brown?

A Mister who?

MR. SILETS: Stand up, Mr. Brown.

A Two or three.

Q Mr. Schiffer?

A He did not appear.

Q How about Mr. Alexander?

A As I recall, possibly two or three.

Q Mr. Tweel?

A Two photographs, as I recall, on Mr. Tweel.

Q Mr. Henry Grady?

A Two or three.

Q Mr. King?

A About ten.

Q All right. Mr. Shenker, will you stand up?

A I don't recall any of him.

Q Mr. Kossman, do you see him? Stand up, Mr. Kossman.

A Yes, he was in about eight or ten with Mr. King.

Q Mr. Campbell?

A I'd say six or seven.

Q Mr. Gillen?

A I don't remember any on him.

Q What about Mr. Bufalino?

A He was in eight or ten.

Q Mr. Ragano?

A None that I recall on him.

Q Mr. Gillen?

A None on him.

Q Well, you just got through saying--

A (Interposing) I said none.

Q None on him. Mr. Previant?

A None that I know of.

Q How about Mr. Doelle?

A None that I know of.

Q Mr. Bernard Shapiro?

A None that I know of.

Q Bernard Mellman?

A None that I know of.

MR. NEAL: Are these all defense counsel, your Honor?

MR. SILETS: These are all counsel that have been working on this case and they know it, your Honor.

MR.NEAL: Or is this--what is this, all defense counsel working on this case?

MR. SILETS: Your Honor--

THE COURT: (Interposing) Proceed.

BY MR. SILETS:

Q Mr. James Haggerty?

A Yes, Mr. Haggerty was in 10 or 12 of the photographs.

Q Now, did you ever photograph Mr. Hoffa and Mr. Berke together?

A I might say this, that every photograph that was made of people out on the street in front of this building or in front of the Patten Hotel. I don't remember specifically, many times there were large groups of people, they may have been in a photograph together, I can't say.

Q You took photographs before the case actually

commenced of people going in and out of the courthouse?

A All of the photographs were taken before the jury was ever impaneled.

Q Sir? Did you take photographs of people going in and out of the courthouse before the case began?

A You mean after the case started?

Q Before.

A Photographs were made of people in and around the Federal Building and the Patten Hotel before the jury was impaneled.

Q What does that mean, what date?

A No photographs were taken after January the 23rd, 1964.

Q And the jury was being called and the venire was being called as of January the 20th?

A That's true.

Q Were you taking pictures of those people as well?

A Taking pictures of people in and around the Federal Building during the time from January the 17th to January 23rd.

Q How many times did you photograph Judge Wilson?

A As I recall, Judge Wilson appears in one of the photographs.

Q And what about the court personnel?

A Many of them.

Q Including his clerks?

A I don't know whether they are in any of them or not, I know the marshals are in many of them. There are photographs made more or less at random in and around the building.

Q How many times did you photograph Mr. Reddy, Mr. Neal and Mr. Hooker?

A They appear in quite a few of them.

MR. NEAL: I didn't know that.

MR. HOOKER: I didn't either.

BY MR. SILETS:

Q Do your reports refer to a Mr. Otis Tyne?

A Who?

Q (Spelling) T-y-n-e?

A No, sir.

THE COURT: Now, gentlemen--excuse me, that's all right.

MR. SILETS: Your Honor--

THE COURT: Yes.

MR. SILETS: This man was called as a witness from Baton Rouge.

THE COURT: Proceed.

A No.

BY MR. SILETS:

Q May you answer the question?

A I answered it no.

Q Now, what use, if any, were made of the photographs of the various defendants and their counsel?

A They were made available to the departmental representatives for their examination to see if they had any value.

Q What do you mean by that?

A They requested the photographs, we made them available to them to see if they showed individuals repeatedly present in and around the courthouse building, people who might be here for some ulterior motive.

Q You say they requested it, who do you mean?

A The departmental representatives.

Q Yes. I mean who was that?

A Well, quite a team of them.

Q Tell us who they are.

A Mr. Neal, Mr. Cassidy, Mr. Sheridan,

Q In other words--

A (Interposing) Many of them.

Q In other words, Mr. Neal requested you to take the pictures in and around the courthouse.

End Tk 15
Tk 16 fls.

A I said that they were requested by the representatives. I don't know specifically which one of them did.

Q All right, but that they requested that these photos be taken?

A We didn't make them of our own accord. We were requested to take them.

Q And you turned them over to them?

A They looked at them but they are for our files.

Q Were copies turned over to them?

A No, sir.

MR. SILETS: Your Honor, may Mr. Sheridan be excluded? He may be called as a witness in this matter. He is in the courtroom.

MR. NEAL: He has not been under subpoena because I specifically inquired. Is he under subpoena?

MR. SILETS: Let's have a forthwith subpoena issued, Your Honor. I mean, are we--

THE COURT: (Interposing) All right.

MR. SILETS: If I indicate that he is going to be called as a witness, isn't that sufficient, Mr. Neal, for your purposes?

MR. NEAL: I don't think we should just go around calling everybody who is here. We object to this, thinking we are going to call somebody. Maybe we are going to call Mr. Previant. Maybe we are going to call Mr. Shenker.

Maybe we are going to call Mr. What-is-his-name over there, Mr. Gillis. If the Court wants Mr. Sheridan excluded we will exclude him, of course.

THE COURT: Well, do you have any purpose?

MR. SILETS: Of course, Your Honor, Mr. Sheridan has admitted being the man who coordinated these activities up here.

THE COURT: All right. Allow him to wait outside.

BY MR. SILETS:

Q Now, sir, isn't it true that there was a man stationed in the building in the TEA building taking photographs of these defendants and their counsel?

A No, sir. All of the photographs made were made on the dates that I have said and for the purposes I have said. Some of the photographs were made from space in another government building, that is true.

Q What building was that? What is the name of it?

THE WITNESS: Your Honor, is it necessary to tell the exact agency? That agency had nothing to do with this.

THE COURT: No, sir.

MR. SILETS: Well, Your Honor, I think it is public record.

THE COURT: Well, it is not material to this matter. Sustain the objection. Let's proceed.

BY MR. SILETS:

Q Now, Mr. Ingram, can you give us the names of the agents that were assigned here and conducted this surveillance?

A You say will I give you the names?

Q Yes, sir.

A They are set out in my affidavit. Do you have a copy of it?

Q Do you recall your affidavit?

A Well I know they are named in there.

Q Strom. Shrider. McGivney. Riley. Reilly. Cole. Murphy. Welborn. Pollard. Andrews. Millard. Hennigar. Keutzer. Slayden. Cooke. Schultz. Brennan. Beiderstedt. Canale. Sanders. Hawkins. Barrett. Sheets. Stout and Hudson?

A Yes, sir.

Q That is all?

A That's right.

Q No others?

A That's correct.

Q Now, Mr. Sanders is a radio expert, isn't he, a technician?

A No, he is not.

Q Which one of those men is the technician?

A None of them.

Q Wasn't there a radio technician sent in pursuant

to your surveillance?

A No, sir.

Q No radio technician?

A There was a radio technician in Chattanooga on one occasion but he comes down every month to check our equipment. And he only comes down and makes a check and goes back.

Q What is his name?

A Lewis--

MR. NEAL: Wait just a minute. That is irrelevant.

MR. SILETS: Your Honor, that appears in what has been introduced as Exhibit "A" to the motion.

THE COURT: Allow him to answer.

THE WITNESS: Lewis J. Bledsoe, (Spelling) B-l-e-d-s-o-e.

BY MR. SILETS:

Q Now, these agents, to whom did they report daily?

A We had an agent, Mr. Barrett, he was in charge of the surveillance on the scene. He had been designated by me to be in charge of the surveillances. They reported to him and he in turn reported to me.

Q Now, wasn't Mr. Hawkins in charge also?

A He is in charge of the overall case here in Chattanooga.

Q What case?

A The matter that is under investigation or the case that is being tried.

Q Do you mean to say that while this case was being tried there was investigation of the case being conducted?

A No, sir. No, sir. I mean that the Hoffa et al matter is generally assigned to Mr. Hawkins. But I have instructed Mr. Barrett to be responsible for the surveillances only.

Q Now, with respect to these other defendants and Mr. Hoffa, are you telling the Court they were under investigation while this trial was being conducted?

A No, sir. No, sir, I'm not.

Q What is this Hoffa matter then that you are talking about?

MR. NEAL: We object to this, Your Honor, being irrelevant and argumentative.

THE COURT: Well, I believe he has explained. I will allow him to explain further if necessary.

BY MR. SILETS:

Q Would you explain it, Mr. Ingram?

A We have communications and mail pertaining to the trial. Someone has to be responsible for coordinating that. That was Mr. Hawkins' task. In any matter we assign it to an individual agent to be responsible for it. That

was Mr. Hawkins' responsibility. But I designated Mr. Barrett to be responsible for the surveillances.

Q Now, Mr. Ingram, isn't it true that you've been in contact with the Southern Bell Telephone Company?

MR. NEAL: Your Honor,we certainly object to that.

MR. SILETS: During the course of this case?

THE WITNESS: No, sir, I have not.

BY MR. SILETS:

Q Anyone in your office or under your supervision been in contact with the Southern Bell Telephone Company in the course of this case?

A Not regarding any surveillances.

Q Well, now, let me ask you this, Mr. Ingram. Isn't it true that every long distance telephone call toll ticket, mark sense card, made by any person in the Patten Hotel has been examined by an agent of the FBI?

A That is not true.

Q Has there been any information furnished to you by the Bell Telephone Company of those phone calls?

MR. NEAL: Your Honor, I don't know where this is heading and we object to it as being irrelevant.

THE COURT: Yes. Unless it relates to some defendant or defense counsel, if it relates to any defendant or defense counsel you may ask the question.

MR. NEAL: Your Honor, excuse me just a moment.

It seems like to me that you just can't go into matters, with respect to matters where there has been no showig whatsoever. Putting an agent on the stand and explore at large on anything without any showing whatever. I don't know just it doesn't seem to me that is the proper way to proceed.

THE COURT: Yes, that is the problem.

MR. SILETS: May it please the Court, we have information that the Knoxville office of the Telephone Company has been furnishing a list of calls made out of the Patten Hotel so that they may be scrutinized by the FBI and this constitutes the same kind of surveillance as if they were actually watching the people walk down the street and that includes the individuals.

End 16
16A fol.

THE COURT: Well, sustain the objection. Mr. BY MR. SILETS:

Q Mr. Ingram, let me ask you this question. Were any of the long-distance phone calls made by any of the defendants or any of their counsel or any of the names that I recited to you who assisted in this case, were any of those phone calls examined by you or your office? Or were they made known to you by the telephone company?

MR. NEAL: Your Honor, that is still the same question.

MR. SILETS: Your Honor, I want to point out to the Court that this man just gave a signal to Mr. Neal with his thumb to ask Mr. Neal to stand up. It sounds as ridiculous as Mr. Hoffa taking his hand away from his face doing this but Mr. Hoffa was accused of that. Now he apparently doesn't want to answer that question and so he has made a signal to Mr. Neal.

THE COURT: Gentlemen, let's get on with the issues of this lawsuit and that is, whether there was any interference with the attorney-client relationship.

MR. BERKE: If your Honor please, the telephone calls and all that is surveillance, if your Honor please, and I say that if I have made a call with reference to this case whether it was this case or not, with Mr. Hoffa, whether Mr. Hoffa made it or I made it that is material on surveillance.

You can be surveilled by telephone, by sight, by sound, and in any other way and we think this witness should be required to answer that question because that is material. It relates only as the question goes now to the defendants and their counsel, it is within the Court's ruling that we are limited to that.

THE COURT: All right.

BY MR. SILETS:

Q Will you answer?

A I have no knowledge of any information furnished by the telephone company regarding any long-distance calls made by any of the defendants or their attorneys.

MR. NEAL: All right.

BY MR. SILETS:

Q Will you state under oath that that was not furnished to your office?

MR. NEAL: He stated that question and answer and there is no thumb business or anything else.

THE COURT: Well, he is under oath. Let's proceed, gentlemen, let's don't argue.

End 16a
17 fls

Q Was it furnished to your office?

A Not to my knowledge.

Q Now, in the course of this surveillance have you worked together with the postal inspectors of the Post Office Department?

A No, sir, I have not.

Q Do you know or was there -- let me put it this way -- was there a mail watch placed upon the mail received by any of the parties in this case or their counsel?

A There was not.

Q Now, you have filed your affidavit in this court and you stated that there were certain acts of surveillance being conducted.

Can you tell us who directed you to make that surveillance?

MR. NEAL: Your Honor, we object to that as being irrelevant.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Now, Mr. Ingram, these photographs that were taken in and about the courthouse prior to the actual impanelment of the jury, were they used by any agents to inquire of the background of those jurors?

A No, sir, they have not been used at all.

Q Was such inquiry made at all?

MR. NEAL: Well, your Honor, we object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q All right. Now, you told us the surveillance began on January 16th?

A Yes, sir.

Q Is there any surveillance going on at the moment?

A No, sir.

Q When did the surveillance end?

A The first one ended on January 23rd, the second one started on February 3rd and ended on February 6th.

Q I thought you said February 4th and 5th?

A No, it ended on the 6th.

Q It was the 3rd through the 6th?

A Right.

Q Now, what caused you to end the surveillance, Mr. Ingram?

A Departmental representatives indicated that it was no longer necessary to continue it.

Q By that you mean this prosecution team?

A That's right.

Q Now, did the agents who were assigned to this surveillance in fact report the comings and goings of Mr. Hoffa and the attorneys in this case?

A They did not.

Q Not even by radio communication?

A Only as they related to someone else who was under surveillance at the moment.

Q Do you know whether any photographs were taken on February 3rd and February 7th?

A No photographs have been made since January 23rd, absolutely none.

Q Now, in the language of the FBI, what does the phrase "will copy" mean?

A That is not our terminology, that phrase is Mr. Spindel's terminology, that is not ours. He has put that in of his own accord.

Q Now, could you recognize voices if they were recorded, could you identify them as being your agents?

A Not necessarily.

Q Now, this surveillance that was in fact conducted, was it conducted on foot or by auto?

A You mean of Mr. Spindel?

Q Well, you have testified that there was a surveillance and in the course of the surveillance these parties were photographed, were observed and seen. Now, was that surveillance conducted on foot or by an automobile?

A Most of it by automobile, occasionally an agent would be on foot.

Q Would the agents be working alone or together?

THE COURT: Just a moment. Let's just take a brief recess and have the jury report down to go to lunch, please.

MR. SILETS: May the witness step out, your Honor?

(Witness temporarily excused.)

(Thereupon, some members of the jury were brought into open court and the following proceedings were had, to-wit:)

THE COURT: Where are the rest?

A JUROR: Mr. Bullen hasn't come in.

ANOTHER JUROR: They are coming down.

A MARSHAL: Come on around here, Mr. Bullen.

THE COURT: One more juror.

A JUROR: Mrs. Key.

THE COURT: Ladies and gentlemen, I have called you down at this time to excuse you for lunch, to go have lunch.

Now, during the lunch hour, do not discuss the case among yourselves or talk with anyone about it or do anything, wait until you are back here and back up in the privacy of the jury room before you begin any further deliberations.

Mr. Bullen, if you will, just turn in the sealed envelope, the Clerk will seal that and hold it and deliver it back to you after you have come back after lunch.

After lunch, if you will, just report back here to the courtroom so we will be sure that all 12 are present, then you may be excused to continue further deliberations in the case.

All right, you may be excused at this time.

(Thereupon, the jury of 12 were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Now, gentlemen, let no one leave the courtroom, no one leave the courtroom until after the jury has cleared the building.

MR. SILETS: Your Honor, I would like to interpose an objection to the -- the Court made that comment in the presence of Mr. Bullen, "No one leave the court until the jury leaves," and if I must suggest that that may leave a bad inference with him.

THE COURT: Well, the Court wasn't aware Mr. Bullen --

MR. SILETS: (Interposing) Last night the Court was very careful to wait until the jury was excluded and this morning.

THE COURT: Well, the reason was that several were going to the door to go out of the courtroom, it was necessary to give the instruction or it would have been of no avail.

MR. SILETS: I think they were all marshals.

THE COURT: No, sir, it was not all marshals but they came back and took a seat.

MR. HOOKER: I don't think he was in here, I think he had gone on.

THE COURT: Well, if he was here I wasn't aware of the fact that he was in here. In any event, it wasn't in any way a prejudicial remark.

We will have that understanding at all times and the officers will follow those instructions upon each instance that the jury is excused.

Is there further examination of Mr. Ingram?

MR. SILETS: Yes. May we have him resume after lunch, your Honor?

THE COURT: All right. Is Mr. Ingram still present?

MR. INGRAM: Yes.

THE COURT: Mr. Ingram, do not discuss your testimony with anyone or allow anyone to talk with you about your testimony during the noon recess.

MR. INGRAM: All right, sir.

THE COURT: All right, let's adjourn court until 1:30.

(Thereupon, at 12:05 o'clock, p.m., court was adjourned for the noon recess until 1:30 o'clock, p.m.)

End 17
18 fls

1:30 O'Clock P.M.
March 4, 1964

(Thereupon, in the absence of the jury of 12 and pursuant to adjournment for the noon recess, court was in session.)

THE COURT: Mr. Berke, is that sunlight making it difficult to see?

MR. BERKE: No, your Hour, unless it bothers the gentleman sitting opposite.

THE COURT: Well, we always have a problem in this courtroom with the lighting on each side. If it is a bright sunlight day then we find people on this side are blinded by the light coming in that window. People on this side are blinded by the light coming in on the other side. But it has always been a difficult problem.

Now, filed as sealed exhibit the FBI reports introduced in connection with examination of the Witness Ingram this morning, and give them the next number.

THE CLERK: No. 246. No. 245 is the government's response to motions for mistrial on the grounds--

THE COURT: (Interposing) I believe we will have to close those windows with the wind blowing, close them some.

THE CLERK: No. 245 is this.

THE COURT: Yes, sir.

THE CLERK: No. 246 is this.

THE COURT: Yes, sir. Exhibit No. 246.

(The sealed FBI Ingram reports were marked for identification as Exhibit No. 246.)

THE COURT: All right, may we have the Witness Ingram return and continue with his examination?

EVERETT J. INGRAM,

called as a witness at the instance of the Defendant Allen Dorfman, thereupon returned to the witness stand and the following proceedings were had, to-wit:)

MR. SILETS: Your Honor is not--I thought the procedure was to bring the jury back?

THE COURT: Yes, just as soon as the jury arrives we will interrupt. Is Mr. Branstetter present?

MR. SILETS: No, he is not, your Honor. He is outside. Mr. Branstetter has returned, your Honor. I assume the marshals are--

MR. BRANSTETTER: (Interposing) I apologize to the Court.

THE COURT: Yes. Well, is Mr. Campbell present?

MR. BRANSTETTER: I will certainly waive his appearance while he is coming.

MR. SILETS: Your Honor, I assume the marshals will be instructed not to return the jury while I am inquiring of the witness?

THE COURT: Oh, yes, we will excuse the witness

when the jury returns. Do I understand you waive his presence, Mr. Branstetter?

MR. BRANSTETTER: Yes, sir.

BY MR. SILETS:

Q Mr. Ingram, this morning you had testified--

THE COURT: (Interposing) Let me be certain--well, here he is present now. All right.

BY MR. SILETS:

Q You testified this morning there had in fact been a surveillance conducted and I believe as Exhibit No. 245 filed this morning was among others your affidavit. In your affidavit you said that the surveillance being conducted under your supervision was of five named individuals. Mr. Hicks, Mr. Test, Mr. Cleveland, Mr. O'Brien and Mr. Spindel?

A That's right.

Q That is your sworn testimony?

A Yes, sir.

Q Now, were any photos taken during the surveillance, photos other than those of these five individuals during the surveillance and not photos out in front of the courthouse?

A The only photographs that we have taken at all have been in front of the courthouse or in the area of the Patten Hotel.

Q Now, were those photographs specifically of these five individuals?

A Well, as I mentioned, we were making photographs of people, just people generally and they--

Q (Interposing) That was prior to the 23rd, is that right?

A That's right, and there have been no photographs taken since the 23rd at any time.

Q Now, if I read to you the names of the agents that we have available to us, who were conducting these various surveillances, could you tell me which office they were assigned to?

A I think I can.

Q All right, Mr. Millard.

A Millard (spelling) M-i-l-l-a-r-d?

Q Yes, sir.

A He is from Atlanta.

Q Mr. Murphree?

A He is from Knoxville.

Q Mr. Shrider?

A Knoxville.

Q Mr. Strom?

A Knoxville.

Q Mr. Andrews?

A He is from Atlanta.

Q Mr. Hennigar?

A He is from Charlotte.

Q Mr. Slayden?

A Knoxville.

Q Mr. Schultz?

A Charlotte.

Q Mr. Brennan?

A Charlotte.

Q Mr. Beiderstedt?

A Memphis.

Q Do you mean he actually came in from Memphis, is that right?

A Yes, sir.

Q Mr. Conale?

A Memphis.

Q Mr. Sanders?

A Knoxville.

Q Mr. Hudson?

A Chattanooga.

Q Mr. McGivney?

A Knoxville.

Q Mr. Reilly (spelling) R-e-i-l-l-y?

A Knoxville.

End Tk 18
Tk 19 fls

Q Mr. Riley (spelling) R-i-l-e-y?
A Chattanooga.
Q Mr. Cole?
A Chattanooga.
Q Mr. Welborn?
A Chattanooga.
Q Mr. Pollard?
A Pollard?
Q Yes, sir.
A Chattanooga.
Q Mr. Cooke?
A Chattanooga.
Q Mr. Stout?
A Chattanooga.
Q Mr. Barrett?
A Knoxville.
Q Mr. Sheets?
A Memphis.
Q He was stationed here at the time, wasn't he?
A Well, he was over here at the time but he is actually assigned to the Memphis office.
Q But he wasn't called in?
A No, he was not called in.
Q All right. And you are from Knoxville?
A Yes, sir.

Q Mr. Hawkins?

A Chattanooga.

Q And Mr. Keutzer (spelling) K-e-u-t-z-e-r?

A He's from Atlanta.

Q Now how long did Mr. Schultz and Mr. Brennan stay on this surveillance?

A All of the agents from out of town, as we call it, that is, from Charlotte, Atlanta, and Memphis, with the exception of Mr. Sheets, only stayed two days, they were only on the surveillance the 22nd and 23rd of January.

Q All of the agents were on surveillance just the 22nd and 23rd?

A Those who came from Atlanta, Charlotte, and Memphis were only on the surveillance for those two days.

Q Well, Mr. Ingram, Mr. Schultz and Mr. Brennan were assigned to surveil who?

THE COURT: Excuse me, let's interrupt the hearing in order that we may proceed with the jury and have them begin with their deliberations.

MARSHAL MANSFIELD: Mr. Ingram.

THE COURT: If you will, step aside.

(Thereupon, Witness Ingram was temporarily excused and the jury was brought into open court.)

THE COURT: All right. Is there a request of the poll of the jury before we let them go back to deliberate?

All 12 jurors are present.

Ladies and gentlemen, if you will, please continue with your deliberations, bearing in mind all of the instructions that I have given you, bearing in mind that the Court desires to be of any assistance that it can properly be to you in the performance of your duty. Just continue your deliberations in good faith and with the sincere purpose of arriving at a verdict, if you can do so in accordance with the instructions of the Court.

All right, if you will, please go and continue your deliberations.

(Thereupon, at 1:39 o'clock, p.m., the jury retired from the courtroom.)

THE COURT: All right, have Mr. Ingram return.

(Thereupon, the Witness Ingram returned to the witness stand and the following further proceedings were had in the absence of the jury, to-wit:)

MR. SILETS: Read the last question.

THE REPORTER: "Question: Well, Mr. Ingram, Mr. Schultz and Mr. Brennan were assigned to surveil who?"

A As I recall, the affidavit they submitted will show who they surveilled and only who they surveilled and I cannot tell you from memory exactly who each man surveilled on any given day.

Q You were the coordinating supervisor of all of

these activities, weren't you?

A Well, I was the agent in charge but most of the time I was in Knoxville. As I explained, I was here on two occasions while the surveillances were in progress.

Q Would you tell us again those dates?

A I was here on January 16th when the surveillances began and I was here on part of February 4 and part of February 5.

Q Well, as agent in charge, what were your duties with respect to this surveillance?

A To see that the surveillance was carried out according to the normal standards and to see that every man knew what he was supposed to do and that he did.

Q All right. Every man then had an assigned task?

A Yes, although they were not rigid, what I mean by that is they were flexible, a man might be surveilling one person one part of the day and he might have been on another one another part of the day, they were shifted around as they were needed.

Q While you were in Knoxville, however, were these agents making reports to you in Knoxville?

A They were submitting the daily reports which were being sent to me, yes.

Q Were they sent by mail?

A Yes.

Q Were there also phone reports?

A Occasionally we would discuss a matter by phone between Chattanooga and Knoxville.

Q Would you discuss it with each individual agent?

A Not necessarily. I would usually talk to the man who was in charge of the surveillance here.

Q All right. Who was that?

A Mr. Barrett.

Q All right. You at that time then were aware of each assigned duty for each agent, is that right?

A Yes.

Q Do you have any idea now what the assigned duty for the Agents Schultz and Brennan were?

A I don't recall specifically, as I said, if I am not mistaken, it's set out in their affidavit.

Q Now, you say, however, they were here for at least two days, all of the agents from Atlanta, Charlotte, and Memphis were here on the 22nd and 23rd?

A They were here on at least part of the 22nd, some of them didn't get here until in the morning of the morning but they were here at least part of the 22nd and they were here on the 23rd.

Q Well, then on the days that they were in Chattanooga were they conducting this surveillance?

A Yes, they were.

End 19
20 fls

Q In other words, they arrived, when they arrived they were given their duties they then commenced their duties and for the two days they were here they were operating pursuant to their duties?

A That's correct.

Q Those duties were surveillance, right?

A That's correct.

Q Now, was there any surveillance conducted in and about the Read House?

A None whatsoever to my knowledge.

Q Did you know where the Defendant Tweel stayed?

A No, I don't.

Q No, sir, I'm asking you, did you, were you advised?

A No.

Q Now the report that was given to you by phone, would that encompass the daily report as well?

A Not in detail, no.

Q The daily report would be the detailed report?

A That is correct.

Q Now, what other reports besides the daily reports were made by the agents to either Mr. Barrett, Mr. Hawkins, or yourself?

A None.

Q Sir?

A None in writing.

Q Oral reports?

A None that I know of specifically. It may be that they may have called something to the attention of Mr. Barrett at the time it happened which would later appear in the written report.

Q Do you mean everything thathappened would appear in the written report?

A Everything of any pertinence or any significance.

Q Now when you say not that you know of, do you mean personal knowledge or do you mean official knowledge including hearsay knowledge from your other agents?

A Well, as I said, I wasn't here all the time but I'm sure that some oral discussions took place in addition to the written reports.

Q Would those oral discussions be conveyed to you?

A May have been that they were not of sufficient pertinence. I don't know.

Q All right, now, in these oral discussions what was the general, what would be the general area of discussion? the surveillance?

A Definitely.

Q And activities to be performed concerning the surveillance?

A I would say so.

Q And those activities would be, might ultimately wind up in instructions, isn't that right?

A That's correct.

Q As to future action?

A That's correct.

Q Now, isn't it true that in these discussions comments were made about observation of the defendants and their counsel?

A Only in connection with people who were under surveillance.

MR. NEAL: Just a moment, Mr. Ingram, if Mr. Silets is going into the contents of a telephone conversation I think the Court should inquire, I ask the Court to inquire if Mr. Silets has knowledge of the contents of a telephone conversation between this agent and others. He is asking, isn't it true that these reports concerned comments about the whereabouts, and I would like to know if he has foundation.

MR. SILETS: It just appears, Your Honor, from the affidavits if the affidavits are truthful that there were certain cautionary instructions given.

THE COURT: Well, again gentlemen, let's just pursue this with respect to the defendants and their counsel and witnesses.

MR. SILETS: That is what I'm inquiring about, Your Honor.

BY MR. SILETS:

Q Now, in these conversations what was said, if anything, about observation of these defendants and their counsel?

A All of the written instructions, all of the oral instructions were that under no circumstance was any defendant to be surveilled and neither was any defendant's attorney to be placed under surveillance.

Q All right, sir. Now, it is true, however, that in the course of your surveillance of these five individuals observations were made of these defendants and their attorneys. Right?

A I mentioned a couple of instances this morning where Mr. Hoffa had been observed and as far as I know that was all.

Q Now, as a result of those observations were there any conversations between the agents, between yourself and any agents?

A I don't understand exactly what you mean by the question.

Q It is simple. As a result of your observing, your agents observing Mr. Hoffa and anybody else in this case, whether it be pursuant to your surveillance of these five individuals or otherwise, did that result in any conversations between the agents that you know of either

officially or unofficially?

A Any conversation would have been along the line that we have no surveillance on Mr. Hoffa. We are not to follow his activities in any way.

Q Now, when the agents did observe Mr. Hoffa pursuant to this surveillance of Hix, Test, Cleveland, O'Brien, or Spindel, was that included in a report?

A It shouldn't have been. As far as I know it was not because they were not under surveillance and they normally report only the man whose activities of the person who is under surveillance.

Q Do you mean to say it is the custom of the FBI if they are surveilling Joe Doe and he is seen with James Neal not to say that he is seen with James Neal?

A It all depends on what the agent wants to do. It is left up to his own judgment.

Q Now, there was a format of this surveillance prepared before the agents were assigned, wasn't there?

A Not in writing, no.

Q Well, how was it done?

A Oral instructions were given.

Q By whom?

A I gave most of them myself.

Q Well, did you give all the agents from Atlanta, Charlotte, and Memphis as well as from your own office in

Knoxville these instructions?

A I gave instructions to all of the agents from Knoxville and Chattanooga. And Mr. Barrett gave the instructions to the agents who came in from the other offices because they came directly to Chattanooga. They did not come to Knoxville. He relayed my instructions to them very explicitly as to what they were and were not to do.

Q And upon what basis was it that you decided not to report the movements of any persons in the presence of Hicks, Test, Cleveland, O'Brien or Spindel?

A We see them with a lot of people. It would take reams and reams of paper for a man to write down everything he sees during an eight or ten hour period.

Q Well, as a matter of fact, when a man is conducting a surveillance he does write down what he sees, doesn't he?

A Pertaining to the person who is being surveilled.

Q And that is put into his little notebook which he carries with him.

A Put into the daily report, daily log.

Q How does he make his notes? Doesn't he make notes into a book?

A I don't know. It is up to the agent. If he wants to make his log as he goes along he can do it.

Q Are there radio reports during the course of the

day, during the course of the surveillance?

A The agents use radio communications.

Q Was radio communications used in this particular surveillance?

A Yes.

Q Now,did each agent assigned to this surveillance have access to radio communications in the course of their duties?

A Except the ones who were on foot momentarily.

Q Do you mean the ones on foot did not use radio communications?

A They didn't have any radio communications on their person, radio facilities on their person.

Q Didn't they have a device by which they could transmit their voice when they were on foot?

A While they were on the street, no.

End 20
Tk 21 fol.

Q Is there such a device used?

A Sure, there are walkie-talkies and other types of equipment.

Q Isn't there a device which is about the size of a large cigarette package which can be carried in a pocket?

A Yes.

Q That is not a walkie-talkie, is it?

A No--well, it could be called that.

Q That has been used by your agents, hasn't it?

A Not on this surveillance.

Q That is your sworn testimony, not on this surveillance?

A That's right.

Q But it is the custom and those pieces of equipment have been available?

MR. NEAL: Your Honor, there is no basis--

THE COURT: (Interposing) Sustain the objection.

MR. SILETS: We will establish--

MR. NEAL: Dick Tracy radio or what type?

MR. SILETS: Not Dick Tracy. We will establish, your Honor, conclusively that these people were in fact using this type of equipment.

THE COURT: Well, let's get back to the issue, gentlemen.

BY MR. SILETS:

Q Mr. Schultz and Mr. Brennan then were here for a day and a part of the next day conducting a surveillance. Now, who was their assigned subject of surveillance?

A As I mentioned twice before, it is set out in their affidavit.

Q Well.

A All I can say is it would have been either Mr. Hicks or Mr. Cleveland and on the 23rd Mr. O'Brien. Now, beyond that I don't know.

Q All right. On the 23rd their affidavit shows that they were surveilling Mr. O'Brien?

A All right.

Q Then I suppose their being present here in Chattanooga on the 22nd they were then surveilling Mr. Hicks?

A Or Mr. Cleveland.

Q Or Mr. Cleveland. Now, then the surveillance was called off after January 27th?

A Called off on January the 23rd.

Q Well, now, many of the affidavits said their activities occurred prior to January 27th.

A I think the reason that date appeared in the affidavits is because that is the date that the jury was impaneled. Actually the surveillance, the first surveillanc, extended from January 16th through January 23rd, then there were no more surveillances until the surveillance of Mr.

Spindel, which started on February the 3rd and ended February 6th.

Q And all of the agents who participated in the surveillance from the 16th of January through up to the 22nd of January were exclusively agents from Knoxville and Chattanooga?

A That is correct.

Q Now, thereafter, after the 23rd, only Mr. Spindel was under surveillance?

A That is correct, sir.

Q Now, I gather from some of these affidavits that Mr. Spindel was picked up in Nashville and followed to Chattanooga?

A He was placed under surveillance in Nashville and surveilled to Chattanooga and then we took up the surveillance on the outskirts of Chattanooga.

Q Who were the two agents that conducted that observation?

A At Nashville?

Q From Nashville to Chattanooga?

A I don't know, they are not under my supervision.

Q Whose supervision were they under?

A The special agent in charge of Memphis.

Q Special agent in charge of Memphis?

A Yes, sir.

THE COURT: Now, gentlemen, what could this conceivably have to do--

MR. SILETS: (Interposing) Your Honor--

THE COURT: (Interposing) With the defendants and their attorneys?

MR. SILETS: Your Honor, it's very simple. We will establish beyond a doubt that there was no surveillance of Spindel from Nashville to Chattanooga, that this was merely a ruse by which the government could observe the Defendant Hoffa by saying that they were in fact watching Spindel.

MR. NEAL: Well, your Honor, in answer to that let them prove what they are going to do.

THE COURT: Put some of that proof on.

MR. NEAL: As we requested in the beginning, put on your proof.

MR. SILETS: That's what I am trying to establish.

THE COURT: Even if that were established the--well, all right, proceed, proceed.

MR. SILETS: He said that the special agent in charge of Memphis would know who these two agents are and I submit there are no such two agents.

THE COURT: Well, it's exactly what I was saying, that I don't see how that is material, whether he was or was not surveilled.

MR. SILETS: Your Honor.

THE COURT: Let's proceed, gentlemen, to the issues in this.

MR. SILETS: I want to explain to the Court the connection, if I can. It is material because the government says--

A MARSHAL: (Interposing) The jury is ready to report.

THE COURT: You may step aside just a moment.

(Thereupon, the Witness Ingram was temporarily excused at 1:55 P.M.)

THE COURT: Wait a minute before they come down.

All right. Let's have the jury come down.

MR. NEAL: Your Honor, I assume that Mr. Schultz or anybody else who wants to come in during this period will be permitted to come in?

THE COURT: Yes.

THE MARSHAL: Do you want them to line up?

THE COURT: Have them line up. Have them come across in front of the bench.

(Thereupon, at 1:58 o'clock P.M. the 12 members of the jury returned into open court and the following further proceedings were had, to-wit:)

THE COURT: The jury has reported back in the case of United States vs. James R. Hoffa, Thomas Ewing Parks,

Larry Campbell, Allen Dorfman, Nicholas J. Tweel and Ewing King. Is there a request for a poll of the jury before we inquire as to the purpose of their return?

MR. HOOKER: No.

THE COURT: The poll is waived. Ladies and gentlemen, have you reached a verdict in the case on all counts and on all defendants?

FOREMAN BULLEN: Yes, your Honor.

THE COURT: All right. Mr. Bullen, if you will, please take out your verdict form and read the verdict, taking up each defendant in each count in order.

On the third count what is your verdict with regard to Thomas Ewing Parks?

FOREMAN BULLEN: Guilty.

THE COURT: You find the Defendant Thomas Ewing Parks guilty?

FOREMAN BULLEN: Guilty.

THE COURT: Now, is that the verdict of each member of the jury?

(No dissenting expression noted.)

THE COURT: All right.

FOREMAN BULLEN: James R. Hoffa--

THE COURT: (Interposing) What is your verdict on the Defendant James R. Hoffa on the third count?

FOREMAN BULLEN: Guilty.

THE COURT: Is that the verdict of each member of the jury on the Defendant James Hoffa on the third count?

(No dissenting expression noted.)

THE COURT: All right. What is your verdict on the third count on the Defendant Larry Campbell?

FOREMAN BULLEN: Guilty.

THE COURT: Is that the verdict of each member of the jury on the Defendant Larry Campbell on the third count?

(No dissenting expression noted.)

THE COURT: All right. Ladies and gentlemen, going to the fourth count of the indictment, what is your verdict upon Nicholas J. Tweel?

FOREMAN BULLEN: Not guilty.

THE COURT: Not guilty. Is that the verdict of each member of the jury on that count?

(No dissenting expression noted.)

THE COURT: What is your verdict then with regard to the Defendant James R. Hoffa?

FOREMAN BULLEN: Not guilty.

THE COURT: And the Defendant Allen Dorfman?

FOREMAN BULLEN: Not guilty.

THE COURT: Now, is that the verdict of each member of the jury on that count as to those defendants?

(No dissenting expression noted.)

THE COURT: What is your verdict on the fifth count with regards to the Defendant Ewing King?

FOREMAN BULLEN: Guilty.

THE COURT: Is that the verdict of each member of the jury on the Defendant Ewing King on the fifth count?

(No dissenting expression noted.)

THE COURT: All right. What is your verdict, ladies and gentlemen, with regard to James R. Hoffa on the fifth count?

FOREMAN BULLEN: Guilty.

THE COURT: Is that the verdict of each member of the jury on the fifth count?

(No dissenting expression noted.)

THE COURT: Very well, ladies and gentlemen, if you will--have you signed the verdict form, sir?

FOREMAN BULLEN: Yes, your Honor.

End Tk 21
Tk 22 fls.

THE COURT: Ladies and gentlemen, I have stated to you many times before the great appreciation the Court has --

MR. BRANSTETTER: (Interposing) May it please the Court, we will want the jury placed in the box and polled individually on each of the counts.

THE COURT: All right. We can conduct the poll right here, ladies and gentlemen. It is the request for the poll to have each member of the jury state that this is their verdict on the respective defendants, respective counts.

First with regard to the third count, Thomas Ewing Parks, if it is your verdict that the Defendant Thomas Ewing Parks is guilty as charged, will you just answer, Yes; if that is not your verdict, answer, No. Call each name of each juror. Just a moment. Mr. William Link, is that your verdict?

MR. LINK: Yes.

THE COURT: Mr. Hal Bullen, is that your verdict?

MR. BULLEN: It is.

THE COURT: Mrs. Annie L. Guinn, is that your verdict?

MRS. GUINN: It is.

THE COURT: Mr. Ray McConnell, is that your verdict?

MR. McCONNELL: It is.

THE COURT: Mrs. Oza L. Akers, is that your

verdict?

MRS. AKERS: It is.

THE COURT: Mrs. Callie T. Key, is that your verdict?

MRS. KEY: Yes, sir.

THE COURT: Mr. Patrick J. Haverty, is that your verdict?

MR. HAVERTY: Yes.

THE COURT: E. D. Case, is that your verdict?

MR. CASE: Yes.

THE COURT: Mrs. Sam Oliver, is that your verdict?

MRS. OLIVER: It is.

THE COURT: Edsel Morrison?

MR. MORRISON: Yes, sir.

THE COURT: J. D. Starnes, is that your verdict?

MR. STARNES: Yes.

THE COURT: John Kilgore, is that your verdict?

MR. KILGORE: Yes.

THE COURT: On the defendant, James R. Hoffa, in the third count of the indictment you have returned a verdict of guilty, if that is your verdict, answer yes.

Mr. William Link, is that your verdict?

MR. LINK: Yes.

THE COURT: Mr. Hal Bullen, is that your verdict?

MR. BULLEN: It is.

THE COURT: Mrs. Guinn, is that your verdict?

MRS. GUINN: It is.

THE COURT: Ray McConnell, is that your verdict?

MR. McCONNELL: It is.

THE COURT: Mrs. Akers, is that your verdict?

MRS. AKERS: It is.

THE COURT: Mrs. Key, is that your verdict?

MRS. KEY: It is.

THE COURT: Mr. Haverty, is that your verdict?

MR. HAVERTY: It is.

THE COURT: Mr. Case, is that your verdict?

MR. CASE: It is.

THE COURT: Mrs. Oliver, is that your verdict?

MRS. OLIVER: It is.

THE COURT: Mr. Morrison, is that your verdict?

MR. MORRISON: Yes.

THE COURT: Mr. Starnes, is that your verdict?

MR. STARNES: Yes.

THE COURT: Mr. Kilgore, is that your verdict?

MR. KILGORE: Yes.

THE COURT: On the third count, the Defendant Larry Campbell, you have returned a verdict of guilty. Mr. Link, is that your verdict?

MR. LINK: Yes.

THE COURT: Mr. Bullen, is that your verdict?

MR. BULLEN: It is.

THE COURT: Mrs. Guinn, is that your verdict?

MRS. GUINN: Yes, sir.

THE COURT: Mr. McConnell, is that your verdict?

MR. McCONNELL: It is.

THE COURT: Mrs. Akers, is that your verdict?

MRS. AKERS: It is.

THE COURT: Mrs. Key, is that your verdict?

MRS. KEY: Yes.

THE COURT: Mr. Haverty, is that your verdict?

MR. HAVERTY: Yes.

THE COURT: Mr. Case, is that your verdict?

MR. CASE: It is.

THE COURT: Mrs. Oliver, is that your verdict?

MRS. OLIVER: It is.

THE COURT: Mr. Morrison, is that your verdict?

MR. MORRISON: Yes.

THE COURT: Mr. Starnes, is that your verdict?

MR. STARNES: Yes.

THE COURT: Mr. Kilgore, is that your verdict?

MR. KILGORE: Yes.

THE COURT: Upon the fifth count we will not take up the fourth count. There are not guilty verdicts in that count as to all defendants.

On the fifth count as to Defendant Ewing King

you have returned a verdict of guilty. Mr. Link, is that your verdict?

MR. LINK: Yes.

THE COURT: Mr. Bullen, is that your verdict?

MR. BULLEN: Yes.

THE COURT: Mrs. Guinn, is that your verdict?

MRS. GUINN: Yes, sir.

THE COURT: Mr. McConnell, is that your verdict?

MR. McCONNELL: It is.

THE COURT: Mrs. Akers, is that your verdict?

MRS. AKERS: Yes, sir.

THE COURT: Mrs. Key, is that your verdict?

MRS. KEY: Yes.

THE COURT: Mr. Haverty, is that your verdict?

MR. HAVERTY: Yes.

THE COURT: Mr. Case, is that your verdict?

MR. CASE: Yes.

THE COURT: Mrs. Oliver, is that your verdict?

MRS. OLIVER: Yes.

THE COURT: Mr. Morrison, is that your verdict?

MR. MORRISON: Yes.

THE COURT: Mr. Starnes, is that your verdict?

MR. STARNES: Yes.

THE COURT: Mr. Kilgore, is that your verdict?

MR. KILGORE: Yes.

THE COURT: On the fifth count as to the Defendant James R. Hoffa you have returned a verdict of guilty. Mr. Link, is that your verdict?

MR. LINK: Yes.

THE COURT: Mr. Bullen, is that your verdict?

MR. BULLEN: Yes.

THE COURT: Mrs. Guinn, is that your verdict?

MRS. GUINN: Yes, sir.

THE COURT: Mr. McConnell, is that your verdict?

MR. McCONNELL: It is.

THE COURT: Mrs. Akers, is that your verdict?

MRS. AKERS: Yes.

THE COURT: Mrs. Key, is that your verdict?

MRS. KEY: Yes.

THE COURT: Mr. Haverty, is that your verdict?

MR. HAVERTY: Yes.

THE COURT: Mr. Case, is that your verdict?

MR. CASE: Yes, sir.

THE COURT: Mrs. Oliver, is that your verdict?

MRS. OLIVER: Yes.

THE COURT: Mr. Morrison, is that your verdict?

MR. MORRISON: Yes.

THE COURT: Mr. Starnes, is that your verdict?

MR. STARNES: Yes.

THE COURT: Mr. Kilgore, is that your verdict?

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22a fls

MR. KILGORE: Yes.

THE COURT: All right, now then ladies and gentlemen, the Court has stated many times its profound appreciation for the service that you have rendered. The dedicated service that you have rendered, the conscientious service that you have rendered, the appreciation for your services and the awareness of the service that you have rendered exceeds anything that you can imagine. There are no medals that this Court can award to you for performing one of the highest duties of citizenship. We during the war I recall that we received service stripes for certain periods of service. After you serve a certain period of time I can't even award you service stripes for the lengthy service that you have rendered here, patiently and conscientiously and with obvious dedication, performing your duty as you saw it conscientiously.

You know the freedom of our whole system of life depends on the jury system. Sometimes we become concerned about what is going on in other parts of the world and what is going on in this nation and we become concerned about whether or not we are losing or preserving our freedom, but when it boils down it is men and women just like you twelve men and women who are ultimately called upon to decided upon what, how the law is going to be applied, and how the law is going to be enforced. It is men and women such as you yourselves who are willing to serve as you have served that

assure the reservation of freedom in this country. And as long as the jury system survives and as long as conscientious, intelligent and dedicated people are willing to serve upon juries, you can rest assured that freedom is going to survive in this country because you are going to see to it that it survives and because ultimately it is your responsibility to see to it that it does survive.

Now, you are going to be dismissed very shortly to resume your normal place in society. I want just to advise you and tell you that no doubt that you may be approached by various people who are interested in your services on the jury, your friends, your acquaintances, perhaps members of the press, perhaps others, attorneys in the case, or otherwise. You are not obligated to discuss any matter pertaining to your jury service with anyone. You are at perfect liberty, perfect freedom, to talk with anyone whom you please to talk with but you are not required or obligated to talk with anyone. If you do discuss your jury service, I would strongly urge you that you be guided by your own mature and sound discretion in determining any response to any inquiry made by you of anyone. If it is necessary or appropriate that the Court--, that there should be any further inquiry in this matter, you will have the opportunity to tell the Court about those matters.

But just remember that the integrity of our

jury system is sacred and it should be protected from any unnecessary and base attack.

Now, any remark or statement made by you may although considered innocent or harmless by you may be misconstrued and may result in further legal proceedings. Unnecessarily so. So, I would caution you strongly to give deliberate and sober reflection as to any statement that you are asked to make regarding your service in this case bearing in mind that you are not called upon or required to discuss your service with anyone at any time but you are free to do so as a free American citizen.

If anyone should at any time in any way indicate anything to you that in your opinion is an improper or indicate to you anything that might indicate some pressure being placed upon you, by reason of your service or by anything that you feel is the least bit out of the way, don't you hesitate one moment to advise the Court of that and the full protection of this court and the full protection of the entire government of the United States shall be made available to you in that respect.

You have performed outstanding service and I wish to commend you.

Now, there are currently going on further proceedings in this hearing and there may be further proceedings and for a few days to come. If you desire to

listen to any of those you are at perfect liberty and freedom to do so and these seats will be reserved for you at any time that you desire to come and sit there. But you are not called upon to perform any further service in this case. And you are at liberty to go to your homes, to go to your businesses, and to go with the satisfaction of having performed as I say the outstanding service that any citizen is ever called upon to perform. Thank you from the bottom of my heart, ladies and gentlemen. All right, you may leave. Mr. Bullen, you have filed your verdict form, have you, sir?

MR. BULLEN: Yes, sir, and the other papers also.

THE COURT: Those will just be sealed.

(Thereupon, the jury of 12 were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Just a moment now, gentlemen. Just one moment, gentlemen. Let's observe the instructions the Court has heretofore given. Has not the Court instructed the officers about these matters? Very well, sir, let's wait until the building is clear, gentlemen. I realize that you news people are anxious, but one or two minutes is not that crucial in your career or in anyone else's.

End 22A
3 fol.

MR. BERKE: If your Honor please, may we have a 15-minute recess, if your Honor please?

THE COURT: Just a moment, sir. Wait just a moment. All right. Now, gentlemen, before taking any recess is there any matter in connection with the bonds of those defendants that have been found guilty?

MR. BRANSTETTER: If your Honor please--

MR. BERKE: (Interposing) Go ahead.

MR. BRANSTETTER: If it please the Court, I would like to request of the Court at this time that all of the defendants be given 30 days within which to file any and all post-trial motions permitted by the rules and to renew any motions for judgment of acquittal or other motions provided by the rules and also a motion for a new trial and that the defendants be permitted to remain on the same bond pending these motions.

THE COURT: All right. The Court is not aware of the bonds in the case. What is the position of the government with regard to the bond on the defendants who have been found guilty?

MR. REDDY: I haven't seen the bonds, your Honor. They came over, of course, from Nashville. We understand they are $5,000.

MR. NEAL: The bonds are ten with the exception of, I guess for each defendant.

THE COURT: Ten thousand dollars?

MR. DALE: It's ten for Hoffa, 5,000 for the others.

THE COURT: Let's confirm that. Get the court record.

MR. REDDY: Let's be sure.

MR. ALEXANDER: The defendants who are not guilty are excused?

THE COURT: Beg your pardon?

MR. ALEXANDER: Those defendants who were found not guilty, are they excused?

THE COURT: I see no reason why not. Gentlemen, just a moment. Gentlemen, the inquiry is about those defendants found not guilty, is there no reason why they should not go hence at this time?

MR. REDDY: None whatsoever.

THE COURT: They are free to go hence. Yes, Mr. Tweel and Mr. Dorfman are free to go.

MR. SILETS: Your Honor, may it please the Court, I notice the Court was kind enough to save a place for the jury. If we wish to sit and observe--

THE COURT: (Interposing) Yes, Mr. Silets, you will have made available a space.

MR. SILETS: Thank you.

THE COURT: All right. Anything further?

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MR. REDDY: Am I correct in that the amount of bonds are five?

THE COURT: Mr. Hoffa's bond is in the sum of $10,000, the other defendant bonds are in the sum of $5,000. I might say, gentlemen, the Court would not consider continuing those bonds.

MR. REDDY: Sir?

THE COURT: The Court will not consider continuing those bonds. Do you have anything further you wish to state?

MR. REDDY: Any recommendation would be, your Honor, that the bonds be increased.

THE COURT: Yes, the Court intends to increase the bonds.

MR. REDDY: Well.

THE COURT: Anything further?

MR. REDDY: Not unless the Court wants a recommendation.

THE COURT: Without anything further Mr. Hoffa's bond will be increased to a sum of $75,000, Mr. King's bond and Mr. Campbell's bond--Mr. King's bond and Mr. Parks' bond increased to the sum of $20,000, Mr. Campbell's bond will be increased to the sum of $25,000. All right.

All right, gentlemen. Now, it will be necessary to arrange to make arrangements for those bonds to be posted before there is--

MR. BRANSTETTER: (Interposing) There is a bondsman here, may it please the Court.

THE COURT: All right. Let's arrange to have those bonds posted.

MR. BERKE: May we have a recess, if your Honor please?

THE COURT: Yes, but it will be necessary for the defendants who have been convicted that they will not be permitted to leave the courtroom until bonds are posted or otherwise.

MR. BERKE: I am sure the defendant would have to sign the bond along with the surety, if your Honor please.

THE COURT: Well, we can do that here. We can do that here then, gentlemen.

MR. BERKE: May I approach the bench for just a moment?

THE COURT: Yes, sir.

(Thereupon, Mr. Berke conferred with the Court outside of the hearing of the reporter.)

THE COURT: Mr. Mansfield, just a moment. Just a moment, sir. Let's see if this is a matter that needs--

MR. BURNS: I wanted to--

THE COURT: (Interposing) Stand back. Let's not stand up to the bar.

MR. LAWRENCE A. BURNS: United Bonding Company

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has underway authority to write up to $150,000, it will be here within the next half hour.

THE REPORTER: What is your name, sir?

MR. BURNS: Lawrence A. Burns.

THE COURT: What is your address, sir?

MR. BURNS: 2850 Guardian Building, Detroit, Michigan.

MR. REDDY: Your Honor, excuse me, I want to be heard on this matter of the United Bonding Company if it's the same bonding company that we have had difficulty with in Knoxville. I want to be heard on it.

THE COURT: All right. Well, the Court will be glad to hear you on that at such time as the bond is tendered, until the bond is tendered the defendants who have been found guilty will remain in custody. Mr. Mansfield, may I see you a moment?

(Thereupon, Marshal Mansfield conferred with the Court outside of the hearing of the reporter.)

THE COURT: All right. At this time then we will be in recess but those defendants who have been found guilty will remain in custody until such time as the bonds are posted. The Court will be available to receive the bonds as quickly as they are made and we will resume this hearing in 15 minutes.

(Thereupon, at 2:25 o'clock P.M. a recess was had.)

End Tk 23
Tk 24 fls.

(Thereupon, at 2:55 o'clock, p.m., court was in session.)

THE COURT: All right, gentlemen, are we ready to proceed with the hearing on the motion on surveillance?

MR. BRANSTETTER: May it please the Court, Mr. Silets has prepared the proceedings for the immediate moment and for today dealing with the surveillance question. And I would like to ask if the Court would recess until in the morning under the circumstances in order that some other counsel or if Mr. Silets were to decide to do so that we can proceed later. I'm not prepared to proceed insofar as I am concerned at this moment.

THE COURT: All right, what is the situation with regard to other counsel?

MR. SCHIFFER: If your Honor would put it over until in the morning, we would appreciate it. Mr. Silets prepared the whole afternoon.

MR. BROWN: That is our position.

THE COURT: All right.

MR. SILETS: May it please the Court, I have just conferred with Mr. --, excuse me. With --

THE COURT: (Interposing) Pull the podium back, please, gentlemen, where it was.

MR. SILETS: (Continuing) -- with Mr. Hoffa, and -- your Honor, first let me inquire if I may proceed

with this motion either as amicus curii or in some other fashion without the necessity of entering an appearance? If the Court feels I should enter an appearance, I am willing to enter a limited appearance just for the purpose of the motion.

THE COURT: You may enter a limited appearance for the purpose of this motion if you desire to proceed with it, yes.

MR. SILETS: Then I enter my limited appearance, if your Honor please, for this motion on behalf of James R. Hoffa.

THE COURT: All right, let's proceed then.

MR. SILETS: Your Honor, Mr. Hoffa doesn't want me to represent him. So Mr. Campbell has indicated that I can enter an appearance on his behalf. If I may proceed, your Honor. Again it will be limited exclusively.

THE COURT: Is that understood by Mr. Campbell and by his counsel, Mr. Branstetter?

MR. BRANSTETTER: It is agreeable with me, may it please the Court.

MR. SILETS: Mr. Campbell?

THE DEFENDANT LARRY CAMPBELL: Yes. Yes.

THE COURT: All right.

MR. SILETS: All right, your Honor, again it is a limited appearance.

THE COURT: Have Mr. Ingram return.

EVERETT J. INGRAM,

was, thereupon, recalled to the witness stand, having previously been duly sworn, and was examined further and testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Ingram, I think the last thing we were inquiring of were the agents that followed Mr. Spindel from Nashville to Chattanooga on February 3, 1964, and you said the names of those agents are in the possession of the special agent in charge in Memphis. Is that correct?

A That's correct.

Q What is the agent in charge's name in Memphis?

A Mr. Karl (spelling) K-a-r-l, W. Dissly (spelling) D-i-s-s-l-y.

End 24
25 fls

8889

Q Now, did these two agents report to you concerning their surveillance?

A No, they did not. They simply brought the surveillance on to the outskirts of Chattanooga and our agents took the surveillance out near the highway patrol station on Highway--, I believe it's on Highway 41.

Q You were in radio communication with them, is that right?

A Not at the moment, no.

Q Well, I mean you were aware that you picked up Spindel?

A Yes, I was aware a meeting was to be made between our agents and the Memphis agents on that afternoon.

Q Which agents picked up Spindel in the city limits?

A I don't know off-hand, there were a number of agents involved, possibly eight or ten, and I don't know which ones were actually the ones who met the car, I believe possibly Mr. Cole was one of them.

Q And they followed Mr. Spindel into Chattanooga, is that correct?

A That is correct.

Q Now, you were starting to tell us about the radio communication facilities maintained by the agents who conducted this surveillance, and I believe perhaps that was the very last that we had left on. Were you telling

the Court whether the men on the street, that is, an agent who was conducting the surveillance without the use of a vehicle had available to him any radio device?

A They did not.

Q How did they communicate with, if they did, with those agents in the vehicle?

A Actually there was very little activity by men on the street, most of the activity, the vast majority of it, was in automobiles where there was a radio available in the car. There was no method of communication between a man on the street and anyone else.

Q Is that your testimony, that there was no communication then between a man--

A (Interposing) No radio communication.

Q What kind of communication was there, if any?

A There wouldn't have been any unless he went to a telephone and made a telephone call or reported back to the office in person.

Q But there was surveillance by men on the street, was there not?

A Very seldom.

Q But there was surveillance by men on the street during this time?

A I can think of one or two instances.

Q And in those one or two instances that you can

think of there was no communication with the vehicle. What would they do, how would they report what was going on in their surveillance?

A Just have to wait until they got back to the office and report what they observed.

Q Now, when you say that you can think of, do you mean that you could think of from your own personal knowledge or from your--

A (Interposing) From reviewing the records.

Q Of the entire surveillance?

A That's right.

Q Now, were these agents furnished photographs before they conducted the surveillance?

A They had an opportunity to examine photographs, yes.

Q And were those the same photographs that were taken in the area outside of the courthouse for the period of the 16th of January through the 23rd of January?

A No, they were not.

Q What photographs were they?

A These were checks of photographs--, many of them from newspapers in Nashville and others that were available to the agents in Nashville, Tennessee.

Q Were photographs of the Defendant Hoffa or the Defendant Campbell or any of the other defendants and their

counsel furnished to the agents?

A I am sure there was some newspaper photographs in the collection so that they would know what these gentlemen looked like.

Q Why would they have to know what the gentlemen looked like if they weren't under surveillance?

A Well, so--

Q (Interposing) Well, strike that, sir, you don't have to answer that.

Now, the photographs that were taken in the presence of the courthouse, were there any efforts to identify the people in those pictures?

A You mean before the photographs were taken or after?

Q Well, sir, I assume before they are taken there weren't any, so let's talk about after they were taken.

A As I mentioned earlier they were made available to the departmental representative for whatever value they might have to them.

Q Did you office, or any of the agents working under you on this surveillance, make an effort to ascertain the identity of people in the 723 photos?

A Well, we knew or the agents here knew a number of them, a number of the people who appeared in the photographs from their personal knowledge.

Q Now, isn't it true that according to the affidavits and the affidavit you filed in response to motions filed by the government, the government indicated that the purpose of these photographs was to make identification of persons repeatedly in and about the courthouse?

A That's right.

Q All right. Now, when was the first time that an effort was made to identify who the persons in and about the courthouse were?

A Well, the photographs were looked at the following day after they were developed to see if they appeared to be of any significance from that standpoint.

End 25
26 fol.

Q Did you see the jury that came in here a few minutes ago?

A I saw their backs and I saw their side views as they walked in.

Q Were some of these people contained in the 723 photographs?

A Not to my knowledge.

Q It is quite conceivable though if they came in the courthouse on or about January 20th?

THE COURT: Gentlemen, let's get back to the issue here and that is the defendants and their attorneys.

MR. SILETS: All right, your Honor.

BY MR. SILETS:

Q Now, as to these photographs of the people in and around the courthouse, what effort did the government include in the FBI for whom you are employed make to determine who was in those photographs?

A As I mentioned the photographs were looked at every day after they were developed, usually the following day to see if there was any repetition of faces that would be of any significance.

Q And if there was a repetition of faces what was done?

A Well, actually there was no particular repetition of faces. The photographs didn't appear to be of any particular

value. There was one gentleman who appeared in a number of the photographs that was never identified and it may be that sometime in the future it may be of some value but as of now I know of no value that it has.

Q Do you mean to say you took the 723 photographs and examined them daily and this was for identification purposes and no attempt was made to identify people in the photographs?

MR. NEAL: I believe that is argumentative, your Honor, he has answered that.

THE COURT: Sustained.

BY MR. SILETS:

Q Do you know Mr. Bedwell?

A No, I do not.

Q Now in the use of this radio communication in conducting the surveillance and in which surveillance I might add occasionally the Defendant Hoffa appeared, were the vehicles each assigned a car number?

A A number that the car has permanently.

Q Permanent number?

A Right.

Q How many different cars were used in the surveillance?

A Usually we would have a car for every two men who were working at the time.

Q Sir?

A Usually there would be a car for every two agents who were on duty at that particular time.

Q It is true, is it not, that in this situation there were occasions when there was only one agent in a car?

A That's correct.

Q How many cars were in use at any single time?

A I'd say never more than possibly six at a time.

Q How many cars were in fact available at any single time?

MR. NEAL: I object to that as being irrelevant.

MR. SILETS: Your Honor, this relates, if the Court please, this relates to the assignment of car numbers. He said each car has a permanent number and I would like to lay the foundation to establish the --

THE COURT: (Interposing) How many cars what? What was your question?

MR. SILETS: How many cars were in fact available for use.

THE COURT: In regard to these activities?

MR. SILETS: Surveillance.

THE COURT: At any one time, is that what you are talking about?

MR. SILETS: Yes, sir.

THE COURT: Well, allow him to answer if he knows.

THE WITNESS: One car for every two men.

BY MR. SILETS:

Q But you didn't answer my question. How many cars were available?

A We had 25 agents involved so that would be roughly 12 cars that would have been available, a maximum of 12.

Q Well, some cars were numbered as high as 23 or 24, weren't they?

A That's correct. The number of the car has nothing to do with how many cars are involved.

Q I see. Now in radio communication during this surveillance it was the practice of the agents to refer to each other by number of initial, isn't that right?

A That's correct.

Q As a matter of fact there was use of a room on the third floor of this building, Federal Courthouse, Chattanooga, Tennessee, from which operations were directed?

A No, sir, not the third floor.

Q Second floor?

A On the second floor.

Q Excuse me. There was an office on the third floor to which the agents from time to time referred, isn't that right?

A Not to my knowledge. We maintained a permanent

office on the second floor of this building. The radio facilities are there all the time. We had no special radio facilities in the office on the second floor during the surveillances.

Q Now, sir, isn't it true that there was an operative, an agent, observing the movements of persons in and out of the building, this Federal Courthouse, from the Post Office Grill, a restaurant across the street?

A No, sirree.

Q There was not?

A There was not.

Q Was there any agent observing movements in and out of the building during the course of the trial either from the 20th of January and following? Now you understand what I mean, the course of the trial? Not just when the jury was sworn but from the time the trial commenced on the 20th of January was there any agents observing the going in and coming out of persons into the Federal Courthouse from the 20th of January on?

A From the 20th through the 23rd the photographs were made from outside the building as I have mentioned before.

Q Sir, my question is, from the 20th on were there any observations made of persons going in and out? You have told me about photographs. I am not asking you that.

A That would have been the only observations that were made during that period.

Q Were those movie photographs?

A No, they were not.

Q Still photographs?

A Right.

Q And were those out on the sidewalk or were they hidden cameras?

A They were not on the sidewalk.

Q Where were they?

MR. NEAL: I believe that the witness said the camera was in a building another federal agency and I don't see that it is relevant to disclose that.

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, I don't believe the witness has testified that the photographs made of the persons leaving and going into the building, U. S. Courthouse, were made in the building.

THE COURT: Let's proceed, gentlemen, I sustained the objection.

End 26
27 fls

Q As a matter of fact, the agents used two different buildings, B-1 and B-2?

A That is correct.

Q Were there more than two buildings used?

A Two were used in the beginning, then one was discontinued and a second one was or a third one was utilized in place of the original second one, never more than two.

Q And these buildings were used to take photographs from?

A Right.

Q And were they both used to take photographs of people coming and going from the Federal Courthouse?

A Only one was used to take pictures of people in the area of the Federal Courthouse.

Q And the other one with respect to the Patten Hotel?

A That is correct.

Q How about the third one that replaced one, was that the Patten Hotel, too?

A Patten Hotel.

Q As a matter of fact, the third one replaced the second one when the FBI discovered that the defendants were aware photographs were being taken?

A That is not true.

Q You were aware that the defendants had knowledge

Ingram - Direct

that photos were being taken?

A No, sir.

Q You have had occasion to read the Exhibit A attached to the defendants' motion for a mistrial, Mr. Spindel's notes?

A Yes, I have.

Q Do you have any knowledge as to the truth of those matters?

A I would say that part of it is believed to be true by the agents who were on the surveillance at the time. There is no way to know whether any of it is verbatim or not because--

Q (Interposing) Until you heard the recordings?

A Because there is nothing that we have to check it back against.

Q Well, now, if a recording was played of those conversations would that be an accurate way of checking it back?

A I don't know. Mr. Spindel is a known electronics expert and I don't know what he may have done. I do know that a lot of it is out of proper sequence as far as time is concerned, some of it is inaccurate, I know that in several instances he put down what he thought he heard when actually it wasn't what was said, according to the agents who were on the surveillance.

Q In other words, you have reviewed this exhibit with the particular agent?

A Yes, I have.

Q All right, sir. Will you tell us which agents' conversations are reflected in that exhibit, just name the agents?

A I can't identify every agent with each piece of conversation.

Q No, I didn't ask you to do that. I just want you to tell the Court which agents' words are, in fact, contained in that exhibit.

A I would say that Special Agent Barrett, Sanders, McGivney, Reilly.

Q Wait a second, just slow down. Which Reilly, there are two?

A (Spelling) R-e-i-l-l-y. Now, those are the ones from Knoxville.

Q All right.

A Chattanooga would be Mr. Welborn, Mr. Cooke, Mr. Riley (spelling) R-i-l-e-y, Mr. Cole (spelling) C-o-l-e, possibly Mr. Hudson (spelling) H-u-d-s-o-n, I am not positive whether he is in there or not, those are the ones that I can recall.

Q What about Mr. Pollard or Mr. Stout?

A Mr. Stout may have been in, I don't believe that

any conversation of Mr. Pollard appears in there.

Q What about Mr. Sheets?

A Yes, Mr. Sheets is in there.

Q What about Mr. Hawkins?

A Mister who?

Q Hawkins.

A Yes.

Q How about Mr. Canale?

A No. None of the agents from the other offices were connected with the surveillance of Mr. Spindel other than the agents from Memphis, who surveilled him from Nashville to the outskirts of Chattanooga.

Q By the way, when you say they were from Memphis and they picked him up in Nashville, isn't that unusual?

A Nashville is covered by the Memphis office of the FBI, not the Knoxville office.

Q In other words, they are stationed permanently in Nashville but their agent in charge is in Memphis?

A The agent in charge, the headquarters for the division would be in Memphis. Now, whether they came out of Memphis or out of Nashville I don't know, but I know they are assigned to the Memphis division.

Q Now, the surveillance of Spindel then occurred from the 3rd of February to the 6th of February?

A That is correct.

Q Was there any surveillance further after the 6th of February?

A None whatsoever.

Q Absolutely no surveillance of Spindel, O'Brien, Cleveland, Test, Hicks, Hoffa, Dorfman, Campbell, or anybody else in this case?

A Absolutely no surveillance with anyone after February 6th.

Q All right. That is your sworn testimony. Now, back here when these radio communications are being transmitted back and forth during the surveillance, is there any record made of those conversations?

A No, there is not.

Q No recording?

A No.

Q No transcription of a recording?

A No, not by us.

Q Yes, not by you. No further questions at this time, your Honor. I think some of the defense counsel would like to reserve them.

End Tk 27
Tk 28 fls.

THE COURT: In other words, Mr. Ingram, do I understand that you were checking Spindel and Spindel was checking you, is that it?

THE WITNESS: That's correct, Your Honor.

CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Ingram, you had agents, of course, in here in the Chattanooga office or otherwise right after the first of January, did you not, sir?

A We have agents assigned here permanently. We have an office right in this building the year round.

Q Mr. Sheets was here on or about January 7 or 8 and continued on, was he not?

A Yes, he came in the early part of January.

Q What other agents came other than Chattanooga agents in the early part of January?

A Later after Mr. Sheets came, Mr. Steele came and stayed for a brief time and then returned to Nashville. Mr. Edward Steele.

Q And what other agents came?

A Other than those who have been subpoenaed in connection with this trial I know of no others other than the ones I have named here already.

Q Well, weren't some of them here before January the 20th?

A No.

Q You say they were not?

A No, because the only others were those subpoenaed to testify in the trial itself and they would not have come until the trial got underway.

Q Did any of your men from Knoxville come in before January 20th?

A They came on January 16th as I have previously testified.

Q Any of them come before that time?

A No, sir.

Q Do some of your agents keep their cars in the Volunteer Garage?

A Yes, sir, that is the official garage for our cars in Chattanooga and has been for many years.

Q As a matter of fact you knew and your agents knew that I kept my car in the Volunteer Garage, did you not?

A I didn't know it until recently.

Q And did you know that some agents had followed me over into North Chattanooga and the area of my home?

A I know that they did not.

Q Are you positive of that?

A I am positive.

Q Were there any other agents here other than under your direction and control from some other district that

you would not know anything about?

A No. Every agent who has been in Chattanooga has been under my supervision and control.

Q Was my son's car ever surveilled?

A No, sir.

Q Was my son's license number ever placed over the air?

A May have come out over the air in passing some of our cars down on either Broad or Market when it was continually observed going by, there was a car there, a Pontiac, with a license number on it that ended in I believe 88. I don't know whether it was your car or your son's car.

Q Well, how many times was my son's license number placed over the air as being observed by your agents?

A I don't remember seeing it more than twice or hearing of it more than twice.

Q Well, that is because you have examined this transcript that was furnished by the defendants?

A That's correct and that is at the time as I mentioned when the car was passing our car. We were not following him. Our car was in a stationary position. The car kept passing our car. The agents took note of it and mentioned that it was a car with license number so and so.

Q Don't you know that on one occasion Mr. Hoffa and three of his attorneys went out into an automobile and

it was my son's automobile and that in the transcription you refer to Mr. H. and three other men getting in a car and you gave the license number.

A No, sir.

Q You don't remember reading that?

A The car that was referred to there was the car that Mr. Spindel had rented from over in Nashville.

Q Well, that wasn't the car with the four eights on it, was it?

A No, it was not.

Q Do you recall that Mr. Hoffa and three attorneys and the license number was put over the air that they had left and also when they returned?

A Not with that license number.

Q Not with the four eights?

A No, sir.

Q Did you read on Page 13 of the transcript of the recording that Mr. H. and company just returned? Do you recall that?

A I don't recall that.

Q Now who would Mr. H. be?

A That would have been Mr. Hoffa.

Q Mr. Hoffa?

A Yes.

Q You were not surveilling Mr. Hoffa, were you?

A No. Because this activity occurred when Mr. Spindel's car was observed at the side of the Patten Hotel with some cartons being loaded into it and the surveillance was on his car.

Q And wasn't this white Pontiac automobile being followed down the west side?

A No, sir, it was a Ford.

Q You followed a Ford down the west side?

A Didn't follow any Ford at all. Didn't follow any car at all when it left the hotel. We simply saw it while it was over there.

End 28
29 fol.

Q Do you recall in one of the conversations put over the air, "Mr. H. and company just returned"?

A That's right.

Q And then again, "Mr. H. and three others getting into a white Pontiac which is parked on the street up from Market Street"?

A That Mr. H. was Mr. Hicks.

Q You say that was Mr. Hicks that got in this white Pontiac?

A Exactly.

Q License 4-8888?

A Doesn't Mr. Spindel have his name printed out there after H.?

Q Not on this one.

A That's who it was.

Q He may on the other one.

A That's who it was.

Q And when you broadcast Marvin Berke's license number, which ended in four 8's, wasn't it also on there, "Why, that is the same car we have been observing before"?

A That had been passing our car parked down on the street where we were watching Mr. Spindel's car, exactly.

Q Actually the language used is the car that you had picked up before?

A The car that had been seen before passing our car

where we were stationed watching Mr. Spindel's car.

Q You had available to you the names of the Hamilton County registration of automobiles, did you not?

A We are able to check them.

Q Yes. Did you ever check that license number?

A Probably did.

Q In fact, you check them very shortly after you get the information, you have people that check the license numbers immediately, do you not?

A If there is any reason to, yes.

Q Well, if it's enough reason to bring it out over the air, it would be enough reason to check it, would it not?

A That is true, unless someone at the office recognized it as one that has already been checked; in that case, it wouldn't be necessary to check it again.

Q Well, now, if this license number four 8's was observed on at least two different occasions, where are your reports about that observation, where are your written reports about that?

A They are in the records that were submitted.

Q You mean the Court has the records?

A As I mentioned, though, that is Mr. Hicks, because Mr. Hicks was running around in an automobile with a walkie-talkie radio sticking out the side of it and that reference to Mr. H. does not pertain to Mr. Hoffa.

Q Well, didn't you testify a while ago that Mr. H. did have reference to Mr. Hoffa?

A I said it may have in one other transmission but it does not in that one.

Q Now, whose number was 4X-3178?

A I don't know.

Q Now, your reports would show the owners of the various license numbers that you thought important enough to report in over the air?

A No, the agent's log for the day would not show it, it would simply show that he observed that car.

Q Well, the report would show that he observed that car and made a record of it?

A Sometimes if the agent observed it he already knows who it is, he might not even make a note of it.

Q But they would be in the reports that you submitted to the Court?

A May be and they might not.

Q Well, were they? You read the reports.

A I don't recall.

Q Are there numerous license numbers mentioned in the reports?

A No, sir, very few.

THE COURT: Gentlemen, again when can we get back to the issues that we are here for?

MR. BERKE: Well, if your Honor please, I think Mr. Marvin Berke is an attorney of record in here and I think I have a right to inquire of him about the observation of his automobile.

THE COURT: All right. Inquire about Mr. Marvin Berke.

BY MR. BERKE:

Q As a matter of fact, when Mr. Hoffa and three of his attorneys came out of the hotel and got in this license ending in four 8's, that was put on the air, was it not?

A You have two incidents confused. The car that Mr. Hoffa came out and got in was the car that Mr. Spindel had rented over at Nashville, it was not the Pontiac. Mr. Hicks was in a Pontiac running around.

Q You say that Mr. Hoffa did not get into this Pontiac belonging to my son?

A Not the one that is referred to in Mr. Spindel's notes.

Q I am talking about the one ending in four 8's, 8888?

A The incident that you are referring to there was Mr. Hicks.

Q Well, do you say now that Mr. Hicks is the one that got into the automobile ending in four 8's?

A He was observed in it, is my understanding.

Q Actually, Mr. Spindel's automobile was a beige colored Chevrolet automobile, was it not?

A I referred to it as a Ford. It was a 1963 beige colored Chevrolet rented from Avis Rent-A-Car Company in Nashville, Tennessee, immediately upon his arrival at the airport there on February 3rd.

End 29
30 fls

Q All right, I will ask you this, if you recall this conversation being read and then if you checked with your agents and found this to be so. Karl, I assume that is one of your agents, do you have an agent by the name of Karl?

A Yes.

Q Karl, this is seven, what does seven mean?

A Car No.7.

Q All right, the boy just passed again. Jack, who is Jack?

A What else comes after that?

Q Jack had copied this same plate number down before. It is 4U-8888.

A That's right. Jack could have been either John Reilly, John McGivney, several Johns in there and I don't know which Jack it was. But that is the incident that I have been describing where our car was parked down on either Broad or Market, and this car kept driving by our car. And the agents noticed it and made mention of it on the air and took note of the license number because it was driving slowly by our car that was parked. We were not following that car. That car was coming by us.

Q All right. You have said in here that Jack had copied this same plate number down before.

A Right.

Q So you had a record of it.

A The car had been observed earlier in the day going by this same location.

Q And your agents knew who this car belonged to because you had a record of it, you had made a check of that license number?

A Some of the agents might possibly have but the agents at the time didn't know if they had, they wouldn't have been raising a question about it.

Q Well, in putting it over the air, they said Jack had put this same number down before.

MR.NEAL: We object, Your Honor. What difference does it make?

THE COURT: Mr. Berke, what has this got to do with a defendant talking to his attorney?

MR. BERKE: It has a lot to do, if Your Honor please, we will show that.

BY MR. BERKE:

Q Then do you remember this question, yea, that is ten four, what is ten four?

A Ten four is an expression that means O. K. Message completed. I understand. It has several meanings.

Q All right. That is the same one that was by there while all of you were out.

A Right. Just as I said, it had been observed passing that locality earlier in the day.

Q And said tried to keep some time on that. You were trying to keep some time on that car. Right?

A In other words, how many times is this car passing our car and looking us over. The purpose of that was to see if a counter-surveillance was being conducted by someone using that automobile.

Q I think the other one, Jack, I recall was about 8:05.

A All right. That is the time on it. Our agents are instructed to be alert for counter-surveillances at all times. This is what they were doing then when those transmissions were made.

Q Now this surveillance was actually made from a building on 11th Street, was it not?

A Which surveillance?

Q This surveillance that I was talking to you about, Mr. Berke's automobile.

MR. NEAL: Your Honor, I object to the use of the word surveillance. I think it has been explained here what happened. A car parked and apparently Mr. Berke kept driving back and forth in front of that car and they don't have to get off the street.

BY MR. BERKE:

Q Weren't you in a building and made observations from a building?

A That has been testified to that we did.

Q And that building is on 11th Street, it is not near the courthouse?

A We made observations from a building on 11th Street, yes.

Q All right, sir. Now, what building was that, sir?

A It is a building in which another government agency has space which they permitted us to use a private portion of their space. They had no idea what use was going to be put of that space.

Q You knew the defendants, their attorneys, were staying at the Patten Hotel.

A Knew that some of them were, yes, sir.

Q And the building that you had was in perfect observation of the Hotel Patten and the entrances, was it not?

A It had a good view of the side of the hotel. The 11th Street side.

Q What kind of automobile did Mr. Hicks have?

A He drove, as I recall, a red and white Pontiac.

Q Red and white Pontiac?

A I think it was a red and white Pontiac.

Q But this license number that my son had, it was a completely solid white Pontiac, was it not?

A That is my understanding, yes, sir.

Q As a matter of fact, Mr. Hicks' automobile was a Ford and not a Pontica?

A I don't know for sure whether it was a Pontiac or not. It was my recollection that it was a Pontiac. But I couldn't say for sure.

Q You could be mistaken about that and could have been a Ford, red Ford instead of a Pontiac?

A My recollection is it was a Pontiac but I'm not positive.

MR. SILETS: May I just inquire further for a moment, Your Honor?

REDIRECT EXAMINATION

BY MR. SILETS:

Q Now, your testimony is that Mr. Spindel was in fact operating a beige colored '63 Chevrolet?

A A rented car.

Q But it was a beige colored 1963 Chevrolet?

A That's right.

Q Now, these radio communications occurred on or about February 3rd or following. Is that right?

A There were radio communications, yes, on the 3rd.

Q And according to the evidence filed in support of the government's response, the government has taken the

position that the only surveillance being conducted at that time was of Mr. Spindel.

A That is correct.

Q Now, on this occasion then when Mr. Berke inquires of you, the conversation was, well, evidently and the big guy came out with the entourage and they looked like they went back over to the parking lot and got into the thing. Do you remember that?

A I remember part of it, yes, sir.

Q And then that continues, this is 24, that number looked like 4X-3178, is that the same one we got one time before last week? Or the week before? Is that the same number? Do you recall? Then a conversation went on and one agent said he would have to look at his book and so forth, do you remember that? Then he said 4X-3178 is listed for 1963 Ford. General Leasing Corporation, 317 Read Lake Road, now, sir, if as the government contends in their motion that only Spindel was being surveilled at that time why were your agents concerned about a Ford with 4X-3178?

A The very reason that I mentioned earlier that our cars were parked on the street watching the car of Mr. Spindel which had been left in a parking lot utilized by the Hotel Patten. And as they sat there watching that car other cars came by and began to show an interest in our car. So in being alert for counter-surveillances they began

to take note of these cars that continued to pass and look them over.

End 30
31 fol.

Q As a matter of fact, later on there was a conversation that went like this, "There's a red-and-white Plymouth or DeSoto station wagon, License 4X-6417, mean anything to us? The reason I asked an individual just came out of the hotel with a roll of tape and a tape recorder and put it in the back seat and drove on, 10-4"?

A That's right, we were watching the hotel because Mr. Spindel was staying in that hotel.

Q But didn't you testify that he had a Chevrolet? Why were you looking at a Plymouth or a DeSoto?

A Because equipment was being brought out of there that could have been equipment that he was using because we saw him when he unloaded his equipment and took it in on the day that he arrived, on the night that he arrived, the night of the day he arrived.

Q Do you remember a conversation concerning a brown bomber?

A I remember that that is in Mr. Spindel's notes but I don't know that the conversation took place.

Q Well, did you talk to your agents about it?

A Yes, but none of them recalled any such conversation as that. There was, as I mentioned earlier, there are many inaccuracies in those notes where he put down information that he thought he heard but actually didn't transpire.

Q Does the License No. 4T-4336, Tennessee, have any meaning to you?

A No.

Q 4-Thomas 4336?

A No, it does not.

Q Now, your agents tell you that from time to time they spent their leisure hours at a restaurant known as Edmonds?

A They ate in there some, late at night usually.

Q And you read some of this transcription where the reference was made to Edmonds, was that a correct transcription in the terms of your discussion with your agents?

A You mean about going to Edmonds?

Q Yes.

A I understand it's substantially correct, possibly not verbatim but substantially correct.

Q You remember this then in that substantially correct transcription, "I think you ought to change locations there. They might be trying to set you up so they can say that the defendants are being surveilled or something. Okay. They are going to have to come up with something. They will probably never find you at Edmonds. I think you have got a real good idea."

A Yes, I remember that, I think it's very significant.

Q And do you remember the reference to Mr. Hoffa, "Did the little man have a dark suit on?"

A No, I don't remember that.

Q That is affirmed, "Yeah, just came out of 11th, and he was walking down just approaching the 11th Street entrance. His companions were with him. I think he saw my unit, too." You don't remember that?

A No, I don't.

MR. SILETS: All right. We will get it from the other agent.

THE COURT: Anything further?

MR. SILETS: That's all.

MR. NEAL: Just a couple of questions.

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Ingram, you were aware, you know all of the agents in this district during the course of the Hoffa trial and, well, from January 1 up to the present date?

A Yes, I know their name and office of assignment of everyone who has been here.

Q All right. Now, were any from the Louisville office of the FBI?

A None except that were subpoenaed here to testify in the case, none in connection with any surveillance.

Q I see. And how about from the Birmingham office

Q And do you remember the reference to Mr. Hoffa, "Did the little man have a dark suit on?"

A No, I don't remember that.

Q That is affirmed, "Yeah, just came out of 11th, and he was walking down just approaching the 11th Street entrance. His companions were with him. I think he saw my unit, too." You don't remember that?

A No, I don't.

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Q All right. Now, were any from the Louisville office of the FBI?

A None except that were subpoenaed here to testify in the case, none in connection with any surveillance.

Q I see. And how about from the Birmingham office

of the FBI?

A None.

Q How about Mr. Clyde Tolson, does he have any reports on this?

A None that I know of, none whatsoever.

Q All right, sir. Now, the reports on the surveillance, were the reports all made to you?

A Yes, sir.

Q Regardless of where the agents were from?

A That's correct.

Q The reports were made to you?

A Yes.

Q All right. Now, all reports on surveillance, regardless from what agent made and where he was stationed, have they been turned over to the Court?

A Yes, sir.

Q You understand what I am saying?

A Yes, sir.

Q Even though it's an agent from Charlotee, North Carolina, if he was here in Chattanooga and any surveillance, any report he would make would be turned over to you?

A That is correct.

Q And you have turned those over to the Court?

A That is correct.

Q Then the special agents in charge from Memphis,

Atlanta and Charlotte would have no reports that have not been turned over to the Court?

A That's correct, not in regard to the surveillance.

MR. SILETS: Objection, your Honor, it's a conclusion on his part. He would have no knowledge of that.

THE COURT: Overruled.

BY MR. NEAL:

Q Were you given any instruction--you have testified there has been some statements in here, three or four people were under surveillance at different times, at certain times, were you given any instructions with respect and did you pass these instructions on with respect to the defendants or counsel?

A Yes, I was.

Q What were those instructions?

A The instructions were that under no circumstances was any defendant or any defendant's counsel to be placed under surveillance at any time.

Q And that's from the first day of this trial right on up to today?

A Yes, sir.

Q Have you carried those instructions out?

A Very definitely.

Q Now, sir, you testified that a Mr. Test was joined by Mr. Hoffa or he joined Mr. Hoffa. Did you even

drop the surveillance on Mr. Test, is that correct?

A That is correct.

Q Was that the custom whenever a defendant or counsel came into the picture?

A That is correct, we would not surveil a defendant or a defendant's counsel at any time under any circumstances.

End Tk 31
Tk 31A fls.

Q All right, sir. Now, to get the thing down specifically then, you said observation pictures were taken of the courthouse, the front of the courthouse, and one entrance to the Patten Hotel, is that correct?

A Yes.

Q And that commenced on what date?

A Actually the first pictures made covered the one side of the Patten, later on it was moved to the other side of the Patten.

Q All right, sir. Now, give me the precise period when that was taking place.

A The pictures were made during the period from January the 17th through January 23rd. No pictures of any kind have been made since January 23rd.

Q No pictures of any kind have been made since January 23rd of any spot here, is that correct?

A That's right.

Q Since January 23rd?

A That's right.

Q That would be Thursday of the first week of trial?

A Well, it was while the jury was being selected before the trial actually got under way.

Q The 20th was Monday, the 22nd Wednesday, the 23rd would be Thursday?

A That is correct.

Q All right. You said the first surveillance took place on January 16th, is that correct?

A That's right.

Q That was terminated January 23rd?

A That's correct.

Q All right, sir. Now, the second surveillance took place on February 3rd and terminated on February 6th, is that correct?

A That is correct.

Q Has there been any other surveillance of anyone during the course of this trial except those two instances?

A None whatsoever.

Q Now, the only surveillance that has been conducted on anyone beyond or subsequent to January the 23rd has been that of Mr. Bernard Spindel, is that correct?

A That is correct.

Q And that is from February 3 through February 6?

A That is correct.

Q All right, sir. Now, you had information when Mr. Spindel came into town that he was a well-known wire tapper, isn't that correct?

A That's correct.

Q Notorious wire tapper?

MR. SILETS: Object to the characterization.

BY MR. NEAL:

Q Well, a self-confessed wire tapper?

A Correct.

Q As a matter of fact, Mr. Spindel has stated to the FBI that he has tapped wires for Mr. Hoffa, isn't that correct?

MR. SILETS: Objection, your Honor.

THE COURT: Overruled.

A I understand he has, yes.

Q You had that knowledge when you started surveillance?

A Yes, sir.

MR. SILETS: Your Honor, may we have that stricken? First of all, it's a guess on his part, secondly, it's not relevant and, thirdly, I think it defames--charges Mr. Spindel with a crime.

THE COURT: Well, since he is stating matters not of his personal knowledge, we will strike that comment.

MR. NEAL: Your Honor, the reason the government thinks it is relevant is to show the basis for the surveillance.

THE COURT: Well, I will allow you to put it in if the witness knows himself, if he knows he can state that.

BY MR. NEAL:

Q Well, the basis for the relevancy, not the truth of the fact but merely for which he started the surveillance

on Spindel, that he had this information.

THE COURT: I will allow you to put it in for that purpose.

MR. NEAL: All right.

BY MR. NEAL:

Q Did you have information, whether it's true or not, did you have information that Bernard Spindel had tapped wires, wire tapped at the behest of the Defendant Hoffa?

A Yes, sir.

Q Is that the basis for the surveillance of Mr. Spindel?

A It apparently was.

MR. SILETS: Apparently was what? Is he suggesting that it was true, your Honor? I move that it be stricken.

THE COURT: All right, sustained.

MR. SILETS: If he had some information let him state the basis for the information.

THE COURT: Sustain the motion to strike.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q Now, you have reviewed, I believe, the notes which purport to record transcriptions of certain radio communications?

A Yes.

Q Between FBI agents?

A Yes, sir.

End Tk 31A
Tk 32 fls.

Q Have you reviewed those in their entirety?

A Yes, sir, I have.

Q Insofar as submitted to the Court?

A Yes.

Q Now were those records put on the air in the course of any surveillance of the defendants or their counsel?

A No, sir.

Q Were they put -- all right, were you surveilling anyone when those radio communications took place?

A We were surveilling Mr. Spindel.

Q Is that the only person?

A That is the only person.

Q So these notes that Mr. Spindel here has submitted to the Court were interceptions of radio communications by FBI agents conducting a surveillance of that same Mr. Spindel, is that correct?

MR. SILETS: Your Honor, I object because it calls for a legal conclusion.

THE COURT: Sustain the objection.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q In any event, those records were put over the air, over the radio waves by agents of the Federal Bureau of Investigation during the course of a surveillance conducted on Mr. Spindel and on Mr. Spindel from the period February 3

to February 6, 1964, is that correct?

A That is correct.

Q Did you give Mr. Spindel or did anyone in the FBI to your knowledge give Mr. Spindel the authority to intercept or pick up radio communications among Federal Bureau of Investigation agents?

A I did not.

MR. SILETS: Your Honor, if the Court please, this again calls for an interpretation of the word "intercept," which is a word of art.

THE COURT: He can say whether or not he gave any authority to intercept the messages or receive them or record them or make a record of them.

BY MR. NEAL:

Q Pardon me?

A I did not give any authority for the messages to be intercepted or recorded.

Q Are you familiar with Section -- strike that. That is all.

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Ingram, you said that there were several agents from Louisville subpoenaed for this case?

A It was my recollection that at least one was subpoenaed here. I believe his name was Mr. Walsh. Warren

Walsh, I believe.

Q And he testified in the case, do you know?

A I don't know whether he testified or not.

Q Do you know, Mr. Ingram, I have listened with some degree of interest to your use of the word surveillance. Will you tell the Court precisely what the term surveillance means?

A Well, to us it means checking a person's activity to see what they do during any given period.

Q Does it include the phrase "observation" for example, observing a particular individual?

A I would say yes.

Q But according to your interpretation it means a format or planned observation, is that right?

A Well, I'm not sure I understand exactly what you mean.

Q Well, is there a definition that is used by the FBI as to the word "surveillance" or "surveil"? I have noticed you have used this over and over again that you did not surveil these defendants or their counsel. That isn't to say that you didn't observe them or your agents didn't observe them?

A Yes, it is to say that we did not observe them.

Q Well, sir, maybe I misunderstood all these affidavits and your testimony. Wasn't Hoffa observed?

A We didn't have any plan to observe them. There was no instructions to observe them. They may have been observed incidental during the surveillances that were authorized and were being carried out.

Q Incidentally to your surveillances of persons authorized to be surveilled that were known confidants and associates of the Defendant Hoffa. Is that right?

A I don't know.

MR. SILETS: That is all right. I think the Court knows.

THE COURT: All right.

RECROSS EXAMINATION

BY MR. BERKE:

Q Mr. Ingram, do you say that you made no arrangements with the telephone company about intercepting any telephone messages?

MR. NEAL: We object to that.

THE COURT: He has answered it.

THE REPORTER: I did not hear the answer, your Honor.

THE COURT: He answered it before. He went over that question once before. Let's go to some new matter.

MR. BERKE: I would like to get the answer on that.

BY MR. BERKE:

Q You say that no telephone messages were intercepted during the period of time say, the early part of January up to the present time?

A That's correct.

THE COURT: All right. Is that all? Step aside.

MR. BRANSTETTER: Could I just ask one question?

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q Do you know whether any of your agents actually talked to Mr. Spindel during the period he has been here on the radio?

A They have not talked to him on the radio. We do not have any two-way radio communications with him.

Q But did any of your agents address a message to him by radio?

A They might have made some comment about him over the radio, but they were not talking back and forth with him in a two-way conversation.

Q Did they ask over the radio, Mr. Spindel, are you getting paid? Where is your money coming from?

A There is some reference in those notes to that.

Q Well, it is true, isn't it?

A I think one of the agents made such a statement in jest, so to speak.

MR. BRANSTETTER: That is all.

THE COURT: All right.

MR. NEAL: Is Mr. Ingram free to go back to Knoxville now?

THE COURT: Well, is everyone through with the examination of the witness? All right, you may be excused. Gentlemen, it seems to the Court that it appears to the Court that the entire basis of this motion must, if it has any basis whatsoever, rests upon Mr. Spindel. Can we not produce Mr. Spindel and let's see what he knows about this matter? If there is any basis to proceed, let's proceed with it.

MR. SILETS: Well, your Honor, I think that we should be permitted to inquire of the agents who admittedly were conducting a surveillance.

THE COURT: Well, so far this has been solely a fishing expedition attempt to make a discovery. If you have some evidence let's produce your evidence and then proceed with the examination. So far the record of this witness is that there was no surveillance whatsoever of any defendant or any defense counsel. If you have any evidence that there was, let's put the evidence on so we can --

MR. SILETS: (Interposing) Well, could we resume tomorrow morning, your Honor?

THE COURT: No, sir, let's go. Let's proceed with this hearing, gentlemen. It is four o'clock. Four o'clock is not the adjournment time. If you have any more

witnesses you want, why call whoever you want to call.

MR. SILETS: Well, is it the Court's ruling I cannot proceed other than that to put on Mr. Spindel?

THE COURT: No, sir, I'm not so ruling. It seems to the Court that that would be the logical way to proceed. I'm not ordering you to proceed that way.

MR. SILETS: I would like to call Mr. Sheets.

MR. NEAL: While he is being called, I suppose somebody will get him. Could we have the Court to consider the testimony of Mr. Ingram on the government's motion to quash the testimony of Mr. Tolson, the deputy director of the Federal Bureau of Investigation, the subpoena on the special agent in charge of the Louisville office, the special agent in charge of the Birmingham office, and the special agent in charge of the Memphis office? And well, I believe Mr. Jay Hawkins would have -- would have the same notes made, may I ask one more question of Mr. Ingram to clear this matter up?

THE COURT: All right.

RECROSS EXAMINATION

BY MR. NEAL:

Q You are still under oath, Mr. Ingram. Mr. Ingram, two questions, you are under oath, you understand that?

A Yes, sir.

Q Does Mr. Hawkins have any notes or reports with

re

respect to the surveillances about which you have testified other than those turned over to the Court?

A No, sir.

Q Now I have been advised by someone that a subpoena has been issued now for another deputy director of the Federal Bureau of Investigation, what is his name?

A Mr. Cartha (spelling) C-a-r-t-h-a D. DeLoach (spelling) D-e-L-o-a-c-h.

Q Is he another deputy director of the Federal Bureau of Investigation in Washington?

A He is assistant director.

Q Is that what they call him, instead of deputy, assistant director?

A That's right.

Q Now, would he have any other reports of surveillance activities about which you testified or in addition to those that have been turned over to the Court?

A None whatsoever.

End 32
33 fls

MR. NEAL: We will file another motionto quash that subpoena when it is served. We ask that the testimony of this witness be considered in support of our motion to quash and may I--, I don't know whether the subpoena has been served on the agent in charge of the Atlanta office--, has there been or not?

MR. SILETS: I think there was.

MR. NEAL: May we move orally to amend that motion to quash to include the special agents in charge of the Atlanta, Georgia office for the same reasons and have the testimony of this witness considered in support and let me ask one more question.

BY MR. NEAL:

Q Would the special agent in the Atlanta office have any additional notes or reports to those that you have turned over to the Court with respect as to surveillances here?

A No, he would not.

MR. SILETS: May I make several inquiries concerning this, Your Honor?

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Ingram, are you telling the Court that you, as agent in charge of this surveillance, made no reports to your superiors concerning the results?

A I didn't say that.

Q Well.

A I said they don't have any records that I don't have.

Q Sir, my question is: Did you make any reports to your superiors concerning these inquiries, these surveillances and the results thereof?

A Yes, sir.

Q And who is your superior?

A Mr. J. Edgar Hoover.

Q And his deputy is Mr. Deloach, isn't that right?

A Mr. Deloach is one of ten assistant directors.

Q And Mr. Deloach is taking Mr. Tolson's place at the moment, isn't he?

A I don't know, not to my knowledge.

Q All right. And now, as far as the special agent in charge in Atlanta, isn't it your sworn testimony that several of the agents came down from Atlanta, isn't that right?

A Three agents, yes, yes, sir.

Q Millard, Andrews and Keutzer.

A That is right.

Q Now, the agent in charge in Atlanta would have a record of the travel authorizations, wouldn't he?

A There were no records of that. He received a

telephone call from Washington telling him to send three agents to Chattanooga.

Q And there is no teletype authorization?

A No.

Q They just go, is that it?

A That's right.

Q How are they accounted for?

MR. NEAL: Well, Your Honor, we object to that.

MR. SILETS: Well, Your Honor, that is the whole point. They were subpoenaed to bring travel authorizations because it is our position instead of just these 25 there may have been more agents.

MR. NEAL: Well, they should bring forth the proof. That is the point I am making, they are trying to impeach this man's sworn testimony. He is aware of the obligation of an oath and they stand up and say, "Now, we put this man on, he is under oath, and yet there may have been--, yet he may be lying."

No proof whatsoever.

MR. SILETS: I didn't say--

MR. NEAL: (Interposing) That's what we objected to here.

MR. SILETS: I am not saying that he is lying. I am saying that it is possible that he is not aware of all of the agents that were here. Now, this is very common

among the FBI people, they don't want the special agent in charge to necessarily know.

THE COURT: Well, if you have any information to that effect you can put it on at the proper time.

MR. SILETS: I have no further questions.

THE COURT: All right.

MR. NEAL: Your Honor, could I inquire one point? We want to, if the Court is not going to quash the subpoena, we certainly want to be expeditious and bring the people here that have been subpoenaed.

THE COURT: Mr. Silets, what is your position with regard to these motions to quash the agents at Louisville and Birmingham?

MR. SILETS: Your Honor, my position is that I think they or the deputy director would be in a position to know which agents from their office came down here and may have been operating outside of the knowledge of this man here.

Now, if the Court desires I think maybe it could be expedited by bringing the deputy director because I would assume that he would have supervising knowledge over all of the special agents in charge and he would know.

THE COURT: Well, suppose he testifies that they were not? Do you still want them to be brought in?

MR. SILETS: I think in that position I would then say that the agents in charge of the other districts

who did not send--, who he testifies did not send any agents down here could be dismissed, but I think somebody in charge somewhere knows categorically all of the agents from any of the outlying districts that came in here.

Now, Mr. Ingram has a specific knowledge, it's very common, Your Honor, when the department wants somebody down here for a specific task they won't tell the special agent in charge that he is coming down but somebody knows that he is coming down, either in Louisville, where he is coming from, or Atlanta, where he is coming from, or in Washington.

THE WITNESS: Your Honor please, could I talk about that?

MR. NEAL: Let me ask one or two questions.

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Ingram, how long have you been in the FBI?

End 33
33 A fol.

A Almost 22 years.

Q Have you ever heard of one FBI agent being sent to the territory of another FBI agent without the special agent in charge being aware of that fact?

A No, sir.

Q In your 22 years?

A Yes, 22 years, I have never heard of any such arrangement.

MR. NEAL: Your Honor, Mr. Silets may have some superior knowledge. Of course, he was with the government for a year but it doesn't seem to me that he would have.

THE COURT: Well, gentlemen, this does seem to be most unusual just to ask to bring anyone and everyone down here with the idea that he might have something to say when you have absolutely no basis whatsoever, you have never apparently contacted him, you have never asked him, you have never done anything, you just bring him down here and subpoena him and put him on the stand and find out in that manner that he knows nothing.

MR. SILETS: Your Honor, I think the Court can take judicial notice that talking to an FBI agent when you represent--when you are representing a defendant is like talking to the Great Sphinx.

THE COURT: Well, have you tried in this case?

MR. SILETS: Sir?

THE COURT: Have you talked, for example, have

you in any way called Mr. Tolson or anyone called the other gentleman you referred to, Mr. Deloach?

MR. SILETS: Your Honor, in my opinion it would be a useless act.

THE COURT: Well, how do you know until you have tried? You say that about every witness that you have subpoenaed. You say it would be useless to talk to this witness so I will subpoena him and bring him from California and we will ask him then and find out that he knows nothing.

MR. SILETS: Your Honor, with the Court's indulgence I will call him and inquire.

THE COURT: All right, do that.

MR. SILETS: Mr. Sheets.

THE COURT: Yes. All right. May this witness be excused?

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Ingram, didn't you say that you did make reports and turn in to your superiors?

A Yes.

Q And you never did answer my question, to whom did you turn them in?

A I turned them in to the FBI headquarters in Washington.

Q In Washington. And who would that be, anyone in particular?

A Well, they have ten divisions up there, it would usually go to the division that handles that type of matter.

Q Well, who would that be that would have your report?

MR. NEAL: Just a moment, now. I will have to let Mr. Ingram determine whether he should answer these questions or not. I don't know what the procedure is.

THE COURT: I can't see the relevancy.

MR. SILETS: Well, your Honor, the relevancy is, of course, if Mr. Tolson or Mr. Deloach or Mr. J. Edgar Hoover, himself, has the reports that is the man who should be brought in.

THE COURT: Well, if he has any information beyond what this witness knows, but this witness has testified positively about the matter and you are asking him now to bring someone here apparently that would only be able to testify what this witness had told him.

MR. SILETS: No, sir. This witness has prepared his own report and those reports, I think, are material to the issues.

MR. NEAL: May I ask one more question, your Honor?

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Ingram, any reports you made to your superiors

in Washington or anywhere else, would they be based upon the reports which are in possession of the Court now?

A Exactly.

Q Would they have any new information, original notes?

A None whatsoever, it would be a very brief summary of the information that has already been submitted to the Court.

MR.NEAL: Thank you.

REDIRECT EXAMINATION

BY MR. SILETS:

Q Are those reports, Mr. Ingram, in the possession of the Court?

A No, they are not.

Q You did not bring them?

A I gave the Court the detailed reports.

THE COURT: All right. Call your next witness.

BY MR. SILETS:

Q Do you have those reports with you, by the way?

A No, I do not.

(Witness excused.)

MR. SILETS: Your Honor, of course, our position is that when Mr. Tolson or Mr. Deloach or whoever it is in Washington, somebody is in possession of those reports and comes, those reports would be made a part of the record here.

Does Mr. Sheets have to be sworn, your Honor?

THE COURT: He has been sworn previously in the record?

MR. SILETS: Yes.

THE COURT: And is still under that oath unless some request for a further administration of the oath.

MR. SILETS: No, sir.

WILLIAM L. SHEETS,

a witness called at the instance of the Defendant Campbell on the motion on surveillance, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Sheets, your full name is William L.?

A Yes, sir.

Q Your initials are W. L. S.?

A That is right.

Q Your occupation is special agent of the Federal Bureau of Investigation?

A Yes, sir.

Q Now, Mr. Sheets, you submitted an affidavit in support of the government motion for or government's response to a motion for a mistrial on the grounds of surveillance, is that right?

A Yes, sir.

Q In your affidavit you said you conducted no surveillance?

A Yes, sir.

Q Mr. Sheets, during the time of radio communication of surveillance that was in fact conducted you participated in it, didn't you?

A Yes, sir.

Q As a matter of fact, you had an active participation, did you not?

A Well, I don't know what you mean by "active", Mr. Silets.

Q Well, tell the Court the degree of your participation in the radio communication.

A I believe that I sent some communications on February 6, to the best of my recollection.

MR. HOOKER: We didn't understand.

MR. NEAL: I didn't understand.

MR. SILETS: February 6th.

THE COURT: You did what on February the 6th?

THE WITNESS: I believe I did send some communications.

MR. HOOKER: Send.

BY MR. SILETS:

Q In your affidavit do you recall testifying in your affidavit of activities that you participated in in the

6th of February?

A Yes, sir.

Q Can you relate that, please, in the afternoon of February 6th?

A I passed the 11th Street entrance of the Patten Hotel and observed an automobile, which I recognized as one having been previously rented by Mr. Spindel in Nashville on February 3. There was one man in the car and I immediately determined that it was not Mr. Spindel and, therefore, I had no further interest in the car or the occupant.

Frankly, at the time I thought the occupant was Mr. O'Brien, whom I had not seen in approximately one year but now I think I was mistaken about the identification of Mr. O'Brien, I don't know for certain who it was, it could have been Mr. Berke, it could have been Mr. Ragano, but I am not certain of that.

End Tk 33A
Tk 34 fls.

Q Were you engaged in the surveillance activity at that time?

A No, sir.

Q Now, Mr. Sheets, have you had occasion to review the transcribed radio communications that were submitted by Mr. Spindel to the Court?

A Yes, sir. About two or three weeks ago.

Q And do you recall that in that transcription there is a reference there was notification by radio that a car was parked in front of the hotel 11th Street entrance and that an agent answered, well, I'm coming down that way now just to get a look at it?

A Yes, I believe I do.

Q Were you the agent that said I'm coming down that way now just to get a look at it?

A I'm not sure. I believe I was.

Q So that means that on the 6th as well as the 4th you were conducting radio communications two days now?

A I don't recall that. There was just the one incident at the Patten Hotel, Mr. Silets.

Q So even though you testified that you were not conducting a surveillance you said well I'm coming down that way now just to get a look at it?

A I believe that is the Patten Hotel incident, Mr. Silets.

Q Sir?

A I believe that is the incident at the Patten Hotel.

Q Yes, and that is with respect to the car?

A Yes, sir.

Q Now your affidavit you said you had been on the way from your office to the Post Office?

A I was on my way to the office.

Q Why did you say on the radio that you were going down past the hotel just to get a look at the car?

A Because I knew Mr. Spindel, having seen him out here in the corridor in the courtroom and I realized that many of the agents on the surveillance had not seen him at all because he apparently had stayed in the hotel.

Q Isn't it true just a few moments before this particular activity on your part that there was another communication from the Edney Building I believe and that was B-2 to 14 and 23, which were you? 14 or 23?

A 23, I believe.

Q All right.

The agent stationed in the building called to 14 and 23 and said the ex-fighter, I guess that was Mr. O'Brien.

A I didn't know about that. I didn't know Mr. O'Brien was an ex-fighter.

Q Will you remember him saying that?

A I remember hearing something like that.

Q The ex-fighter just came out with two un-identified W.M.A., that is White Male American, isn't it?

A Yes, sir, I would say so.

Q He got into the car, he is not moving as of yet. Is that right?

A I believe so,yes, sir.

Q So at the time you went down to look at the car on the 11th Street side to determine whether it was Spindel, you had already been advised that it was O'Brien in the car?

A No, sir.

Q Well, that is what the radio communication said, B-2 in the Edney Building had already advised you that O'Brien was in that car?

A No, sir.

Q And you said I'm coming down that way now just to get a look at it?

A As I recall it was apparent to me that whoever was sending those communications did not know who the person was in the car.

Q Well, the communication was the ex-fighter just came out and he got into the car and he is not moving as of yet?

THE COURT: Again Mr. Silets, what does that have

to do with defendants and their attorneys?

MR. SILETS: Your Honor, the government says that there was no surveillance of anybody except Spindel on these dates. Our position is in fact there was surveillance of others including O'Brien who is sitting right here. Stand up, Mr. O'Brien?

THE COURT: Is he a defendant or attorney?

MR. SILETS: No, but the FBI and the government knew--

THE COURT: (Interposing) Who is Mr. O'Brien?

MR. SILETS: Stand up, Mr. O'Brien.

THE COURT: What does he do?

MR. SILETS: Mr. O'Brien is assistant to the International here in Chattanooga and has been residing in the same suite with Mr. Hoffa.

THE COURT: Is he an attorney?

MR. SILETS: No, sir.

THE COURT: What is his occupation?

MR. SILETS: He is an official of the International Union, Your Honor.

THE COURT: What?

MR. SILETS: Local union.

THE COURT: What does he do?

MR. O'BRIEN: Business representative, Your Honor.

MR. SILETS: Our position is Your Honor--

THE COURT: (Interposing) In other words, he is not an attorney here in any respect, is that right?

MR. SILETS: Yes, sir, but I want to point out to the Court my position that this is the same man who is not only staying in Mr. Hoffa's suite, lives in his home in Detroit when Mr. Hoffa is not there, and he is the same man that the government would know Mr. Hoffa would be seen with very, very often and on the pretext of observing him they were in fact observing Hoffa. And it was conceivable throughout the case, too, I might suggest Your Honor, that Mr. O'Brien might have been a witness.

THE COURT: Well, we will not have to try this case on what is conceivable. We will have to try this case on what transpired.

BY MR. SILETS:

Q Now, Mr. Sheets, isn't it also true that at no time other than the first day that Mr. Spindel was in Chattanooga that he left the hotel?

A Mr. Silets, I do not know. I never saw him leave the hotel. I saw him enter the hotel.

Q Sir, when did you see him enter the hotel? Sir?

A Pardon me?

Q When did you see him enter the hotel?

A February 3rd, I believe.

34-6A

Sheets - Direct

Q Mr. Sheets, who is Ben?

A Ben?

Q Yes.

A I have no idea. If it will help you any, though, I believe that word should have been say "Bee", not "Ben".

Q Bee? Do you recall that conversation?

End 34
34A fol.

A Yes, sir, it was somewhat inaccurate.

Q Do you remember the conversation something like this, 24, go ahead, you in touch with W. J. S.? Is that supposed to be you, W. J. S.?

A No, sir.

Q This other agent who was W. J. S.?

A No, sir.

Q Was a few minutes ago. I can try. Ask him what time he intends to place bee up to the mountain. If it is anywhere reasonably early like seven, eight o'clock, ask him if he can bring the documents that I need with him. Do you remember that?

A That had nothing to do with surveillance of any description.

Q Had nothing to do with surveillance?

A Absolutely not.

Q Personal business?

A No, sir, not personal business, but nothing to do with surveillance.

Q What was three one seven?

A Three one seven is the radio station at the Chattanooga resident agency of the FBI.

Q Well, is that the room number here on the third floor?

A It is not. It is on the second floor.

Q Well, what is it? Is it really two one seven?

A I don't know the room number, Mr. Silets, but that room number has nothing to do with three one seven.

Q What is one four one seven?

A One four one seven?

THE COURT: Again what does this have to do?

MR. SILETS: Well, it relates, your Honor, to the activities of Mr. Sheets with respect to the surveillance.

THE COURT: Well, it seems to me we are getting awfully far afield.

BY MR. SILETS:

Q Yes, sir, what is it?

A Pardon?

Q What is one four one seven?

A My creditials number.

Q Your number?

A Yes, sir.

Q As a matter of fact the agents also instead of being called B-2 or B-1 or 23, when they are in a car occasionally have their credentials number cited?

MR. NEAL: Your Honor, we object to this.

THE COURT: Sustained.

MR. NEAL: I think this is bad for everyone for this kind of interrogation to go on.

THE COURT: Sustained.

BY MR. SILETS:

34a-3

Sheets - Direct

Q Do you remember a conversation where you were being, getting ready to get in a position behind the building on Ninth Street?

A No, sir.

Q Do you remember trying --, do you remember you conducting a surveillance or surveillance being conducted through your auspices of an automobile in this conversation being spoken by you? First, W. L. S., go ahead. Are they --, they have taken another route. They have gone through North Chattanooga. In other words, across Market Street Bridge, turn right and then past the restaurant on the right. Bear left. There at G. P. S., Girls Preparatory School. Up over the hill. Like that out Hixson, out and so on, do you remember that?

A Yes, sir.

Q Whose car was being tailed then?

A That had nothing to do with a surveillance.

Q Well, sir, what did it have to do with?

A Since it had nothing to do with surveillance, I don't believe it would be relevant, Mr. Silets.

MR. SILETS: Your Honor, this witness is making his own determination of what is relevant.

THE COURT: You can ask him if it involved any defendant or defendant's counsel. We are not going into the investigation here of all law enforcement officials of the

Federal Bureau of Investigation. If it had anything to do with any defendant or any defense counsel you may ask him.

BY MR. SILETS:

Q Did it have anything to do with any defendant or defense counsel or Mr. Spindel?

A No.

Q Or any witness in this case?

A No, sir.

Q You were aware also at the time of all the witnesses that were coming into Chattanooga on behalf of the defendants, weren't you?

A No, sir.

Q You were aware of some of them?

A Do you mean before they came?

Q When they were coming into town?

A Well, if I saw them and recognized them, but I don't recall having any advance information on any of them.

Q Well, you saw them and recognized them, you passed that information on to Mr. Neal or to your superiors?

A I only recall doing that out here in the corridor. I wouldn't pass it on to anyone.

Q Which agent is named Carl, Mr. Sheets?

A I believe that would be Special Agent Carl Barrett.

Q Barry?

A Barrett.

Q Barrett?

A Yes, sir.

Q And he was in charge, was he, of the surveillance?

A Yes, I believe he was.

Q Now while you were participating, were you in an automobile?

A I was in an automobile any time I used the radio.

Q Were you alone or were you with someone?

A I was alone.

Q And in what automobile would you use, what number?

A 23.

MR. SILETS: May I have a moment, your Honor?

THE COURT: All right.

End 34a
35 fls

Q As a matter of fact, you had quite a bit of conversations, didn't you, Mr. Sheets?

A Mr. Silets, I don't know what "quite a bit" is.

Q You remember one point you were called "23, can you give some relief to come up to the office? We need to talk to you without disrupting the surveillance."

A No, sir, I was not the occupant of the car at that time.

Q Who was?

A I do not know.

Q In other words, you didn't use "23" all of the time?

A About the only time I used it was the one time and I used "23" at that time but it was used by many other agents.

Q Now, who was "937"?

A I do not know.

Q Wasn't there a technical operative brought in to assist in the radio communications on this surveillance?

A No, sir, not to my knowledge.

Q You mean not to your personal knowledge?

A That's right.

Q Did you hear of such a man?

A No, I heard of a radio technidan being here to repair some radio equipment but not to participate in any

surveillance.

Q As a matter of fact, wasn't there one point where that technical man attempted to obtain a walkie-talkie so he could listen in to the communications by Mr. Hicks?

A I do not know, Mr. Silets.

Q Just what was your function with respect to the surveillance?

A I had very little to do with the surveillance, Mr. Silets, I was here most of the time, that was my only participation.

Q Well, what were the circumstances upon which you happened to take part in the surveillance?

A I believe I have already explained.

MR. NEAL: I believe he has testified to that.

THE COURT: Sustained.

BY MR. SILETS:

Q Now, Mr. Sheets, you make a daily summary report.

A Not a daily summary report, Mr. Silets, I make a daily report.

Q And who did you make a daily report to during the course of this surveillance?

A To Mr. Ingram.

Q Do you have a copy of your report?

A No, sir.

Q Do you keep copies of your reports?

A No, sir.

Q Now, Mr. Sheets, how many times have you observed the Defendant Hoffa during the course of your duties while you have been here in Chattanooga in the course of this case?

A On surveillance?

Q Well, I have asked you how many times you have observed him.

A I have observed him here in the courtroom on numerous occasions.

Q Well, have you observed him outside of the courtroom?

A I don't believe I ever have.

Q Well, do you know?

A I think I do know. I don't believe I've seen Mr. Hoffa outside of this courtroom since I have been in Chattanooga.

Q All right. Have you seen any of the other active participants, by that I assume you know what I mean, attorneys or persons assisting attorneys or defendants?

A No, sir.

Q You have not?

A No, sir, not outside of this building.

Q Did you ever report the movements of any of these individuals to other agents that they were in fact leaving the building at any time?

A No, sir.

Q That was done, though, wasn't it?

A Not to my knowledge.

Q Well, you mean your personal knowledge?

A That is right.

Q But you have heard about it?

A No, sir.

THE COURT: All right. Anything further?

End 35
35 A fol.

CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Sheets, you recall in the Volunteer Garage where you passed by my automobile on about January 9th at night, my car was blocked by a truck and I blew the horn and you walked by my automobile?

A No, sir, I do not know what kind of automobile you have, Mr. Berke.

Q Well, you keep your car in the Volunteer Garage?

A Yes, sir.

Q You recall on one night on January 9th that there was a truck blocking me and I blew the horn, do you remember the truck blocking the entrance of the Volunteer Garage?

A No, sir, I do not remember that.

Q Weren't you there with some other agents?

A No, sir.

Q Do you deny that?

A I do deny it, I have never been to the Volunteer Garage with any other agent.

Q You say you were there by yourself at that time?

A No, sir, I was not there.

Q Did you ever observe me at the Volunteer Garage?

A No, sir.

Q You say you made no surveillance of any kind. You were here January 9th, weren't you?

A Yes, sir.

Q What day did you arrive?

A January 9.

Q And where was your car parked?

A I did not have a car at that time.

Q Well, were you given a car that night?

A I don't recall. I don't believe so.

THE COURT: All right. Anything further?

MR. NEAL: One question.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Sheets, you executed an affidavit to the government in support of the government's response to the motions for mistrial on the ground of surveillance?

A Yes, sir.

Q Is that testimony, the statements therein, true and correct?

A Yes, sir.

Q Do you adopt that affidavit as your testimony here on the stand if I asked the questions?

A Yes, sir.

MR. NEAL: No further questions.

THE COURT: All right. Now, then, gentlemen, it seems that with regard to any motion to subpoenas duces tecum that the government should file any affidavit that they

35a4

I can see no reason for allowing any time other than the time provided by the rules. I think we should follow the rules in every criminal procedure in filing any motions that you wish to file.

MR. BRANSTETTER: Of course, if the Court please, insofar as I personally am concerned in representing Larry Campbell I have been out of my office for the greater part of two months. It could not physically be done.

THE COURT: I don't know of any more important legal work that you have to do than to try this lawsuit now that it's in progress.

MR. REDDY: Your Honor, I might mention at this time about the bond.

MR. BROWN: Your Honor, before we get to the bond I am in the same position Mr. Branstetter is in this matter.

THE COURT: All right. The Court has indicated its ruling in that respect, let's just follow the rules of criminal procedure.

MR. REDDY: I checked with the Clerk's office in Knoxville and the bonding company offered by these defendants is not the same company that we have had difficulty with in the Northern Division; so far as I know, this bonding company is satisfactory if it is satisfactory with the Clerk.

End 35a
36 fls

THE COURT: All right. All right, does the clerk have any information on the bond?

MR. BERKE: Your Honor please, the bond has already been signed. May we have the permission to take the defendants in and have them signed in the Clerk's Office?

THE COURT: Can we not bring them in here and let the Court see what the qualification is? Do you have any information on the United Bonding Company? Does anyone have any information upon that company?

MR. REDDY: No, Your Honor, I do not have any information on it. My information is on the United Benefit Company.

THE COURT: Does the clerk have any information on it?

MR. LAWRENCE BURNS: This company is registered with the Treasury Department, Your Honor, and is allowed to write bonds under the Labor Management Act and also federal court.

THE COURT: Give the reporter your name, sir.

MR. BURNS: Lawrence A. Burns. You already have it. But they are allowed to write up to $500,000.00 or $600,000.00. I don't know what the limits are.

THE COURT: We have a procedure in this court of filing a qualification which means filing a financial statement. Do you have a financial statement, sir?

MR. BURNS: We can get a financial statement but we can also check with Labor Management. They are right in the courtroom and they will tell the Court what our assets are.

THE COURT: Well, I think it would be better if you filed a sworn statement as to your assets and what Labor Management might think they were--

MR. BURNS: (Interposing) It is not what they think they are. The Treasury Department has already approved it, Your Honor, under a certain list, allowing labor unions to be bonded.

THE COURT: Does the clerk have any information on it?

MR. SAULPAW: Your Honor, I called Mr. Clarence Cochran, the deputy commissioner of Insurance and Banking yesterday. He said that this company was licensed to do business in the state of Tennessee but it was not a very large company. It has been in business since 1956. Started out with a capitalization of $510,000.00. At this time it has an unassigned surplus of $255,000.00. It has capital of $406,000.00. It made a profit last year of around $9,000.00.

MR. BURNS: If the Court would want to restrict us writing bonds up to the limit we are writing here in the state of Tennessee, we would do that, Your Honor.

THE COURT: All right.

MR. SAULPAW: Mr. Cochran advised that his opinion would be that it would be good for $100,000.00, but not for much more than that.

THE COURT: Is that information correct to the best of your understanding, sir?

MR. BURNS: Well, our assets are over half a million dollars, that information is correct, and we are licensed under the Treasury Department to write certain bonds under the Labor Management Act which the government has already accepted. So if in each instance we were allowed to write up to $100,000.00, it would cover whatever the Court has set in this case. We would also be willing to enter into an agreement with this Court to restrict writing bonds in the state of Tennessee after these bonds are written, Your Honor.

THE COURT: All right. All right, any further suggestion from the government in the matter?

MR. REDDY: No, Your Honor.

THE COURT: If not, the bonds will be approved with the United Bonding Insurance Company as surety. In the amount specified.

MR. BERKE: May I have them one moment?

MR. SAULPAW: Mr. James? Mr. James?

MR. BURNS: He is in the clerk's office.

MR. SAULPAW: We have Mr. John T. James' name on the docket and he will sign this bond. John T. James?

MARSHAL MANSFIELD: Your Honor, do you want the bond executed in the courtroom? The Commissioner is here if you want to execute the bond now?

MR. BERKE: Can it be signed here in open court?

THE COURT: Yes, sir. Mr. Silets, what agent or agents will you want in the morning?

MR. SILETS: Well, Your Honor, may I have a list of those that are here so that I can--, I know Mr. Neal said that there were about 10 or 15 here.

THE COURT: All right, can you have Mr. Neal return to the courtroom?

MR. REDDY: Get Mr. Neal.

MR. SAULPAW: I will take these in the office, Your Honor.

THE COURT: Mr. Neal I inquired of Mr. Silets as to what agents or witnesses he might desire in the morning and he asked that you advise him as to what agents were available.

MR. NEAL: We have, my understanding is--

THE COURT: (Interposing) Is Mr. Silets here?

End 36
36A fol.

MR. SILETS: Yes, sir.

MR. NEAL: Your Honor, I can't give you the names without referring to the names given here. But we are going to have all 16 agents from the Knoxville office. These are all under subpoena, it is my understanding, and it is my understanding we are going to have the three agents from the Memphis office. And the three agents in the Charlotte office and the three agents from the Atlanta office.

THE COURT: Which of those will you want? It is obvious we can't have them all tomorrow.

MR. SILETS: No, but I think we can move with great dispatch and since they are all here rather than send them back to their out-of-town offices I would just suggest that they just continue here tomorrow morning.

MR. NEAL: Well, I don't say that they are here now. I have asked that they have them all here that they have these agents here tomorrow. I can't say that they are here now.

THE COURT: Can you tell him what agents are here now?

MR. SILETS: Well, may I say this, your Honor, whoever is here now will be our next agent.

MR.NEAL: If you can tell us how many we can get to, we will have that number here, if we can get to 10 or 12.

MR. SILETS: I don't know how quickly we will

move. I would say that an average of 20 minutes an agent, or 15 minutes an agent.

MR. NEAL: Fifteen minutes an agent, then we can get through them all.

THE COURT: Well, if we got through any witness in 15 minutes it would be the first time in the history of this lawsuit.

MR. NEAL: We will have 10 or 12 here, your Honor, would that be sufficient?

THE COURT: All right. Is there anything further to come up this evening? If not, let's adjourn court until nine o'clock tomorrow morning. Just one moment. Have the bonds, have the bonds been made and approved now?

MR. BERKE: Yes, your Honor.

THE COURT: Mr. Morgan, Mr. Arnold Morgan, has he got the bonds?

MR. DALE: Yes, sir.

THE COURT: All three, all of them?

MR. DALE: Yes, sir.

THE COURT: All right, let's adjourn court until nine o'clock in the morning.

(Thereupon, at 4:45 o'clock P.M. court was adjourned until tomorrow morning at nine o'clock A.M., March 5, 1964.)

End Tk 36A

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on March 4, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 4th day of March, 1964.

Fred B. Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	NO. 11,989
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: March 3, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXXIII

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THIRTY-SECOND DAY OF TRIAL

9:00 O'Clock A. M.
March 3, 1964

(Thereupon, pursuant to adjournment from March 2, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. HAGGERTY: May I address the Court?

THE COURT: Yes, Mr. Haggerty.

MR. HAGGERTY: Your Honor, during the past week it has been very noticeable that the handling of the jury by the marshals is more fitting to a Russian spy or traitor trial than it is to the handling of a jury in a American court of justice.

I have been advised that this morning the nine marshals in trenchcoats had the jury in custody, so to speak, more as if they were prisoners than they were jurors, that with military precision, so to speak, they blocked off the TV cameras and the radio crews in front and when entering the building they blocked, they blocked off all except the jury, guarding doorways, corridors, spokes of the corridors, held them up at the top of the elevator in a group.

Now, this has been going on, this has been going on for a week. It seems to me that such treatment of this

jury which is locked up, and for a juror that is bad enough, but such treatment as this accorded the jury can lead to but the one conclusion on the part of the jury and I say it is most detrimental to the defendants.

Therefore, I respectfully request that your Honor do one or two things, that they break up this military display and this keeping the jury in custody, so to speak, or you grant us a hearing this morning to establish on the record the truth of my statements.

MR. SILETS: Your Honor, I would like to be heard also. Yesterday during the course of the argument I noticed this martial atmosphere also, and I mean (spelling) m-a-r-t-i-a-l, but I know there is also a marshal (spelling) m-a-r-s-h-a-l atmosphere and presently there are one, two, three, four, five, six, seven, eight, nine, ten, eleven marshals stationed in this courtroom alone and the Court will observe they are all standing around as though they are guarding -- I don't know what they are guarding -- and this is in the full observation of the jury.

When I got up to make my address each time I turned to the back of the room there I see these handsome, huge men with folded arms. It really is distressing to me when I make my summation and I certainly can imagine that if the jury were to look out it would be distressing to them and I said this several times in the past, this isn't an

1-3

income tax case, this isn't a counterfeiting case, this is a jury-tampering case, and when you have that kind of marshaled atmosphere around there can be only one inference that the government is afraid that we are going to tamper with this jury.

End 1
2 fls

THE COURT: All right.

MR. BRANSTETTER: May it please the Court, it is not at all funny because we at counsel table, Mr. Silets and myself on yesterday discussed this very problem before anyone and all raised it. I would like to know myself at this point and I attended some of the war crimes trials and I never saw a display of this sort of thing. In a free country. And I am very serious about it. It is not being made as any demonstration or show to this Court because of the respect for this court and our judicial system but this will not permit a judicial system to continue like we have. I would like to know how many marshals are in this courtroom at this time. I can see ten or twelve standing. Justice cannot be dispensed under that type of surveillance.

MR. SCHIFFER: On behalf of the Defendant Parks, Your Honor, and I assume for the rest of the defendants, I assume that I have made my position very clear on this record. From the time we started all I wanted was a fair trial. Today from what has already gone in the record by my brother counsel, Your Honor is again apprised of the fact that this jury inferentially as they stand now and as they sit in this jury box, the government is attempting by some means, psychotic, call it whatever you will, but they are attempting to the very last moment to influence this jury on the side of the government.

What I would like to make very plain, Your Honor, if I may, that these marshals operate for the Department of Justice. They are not here as officers alone of this court. That everybody who looks after this jury is someone who works for the Attorney General of the United States. And I say this that it is unfair to these defendants to have to sit here for all of these weeks and have a jury supervised by the very people we say have framed the defendants in this case.

Now, what happened today with a trench coat scene and all the rest of it certainly happened in Nazi Germany and the Russia of old and the new regime. It happened in Italy under Mussolini..

These things we want to keep out of this country. I am placed here as a part of the court and a lawyer to maintain the integrity of the judicial systemand I am going to maintain that and raise my voice in protest as to what happened here today. They are absolutely prejudicing this jury, Your Honor, with this kind of activity. All I can do is explain to Your Honor here what our position is and ask the Court as I have done dozens of times to have to ask the Court to use your power to prevent a miscarriage of justice in this case. We are not in a court of justice. We are not dealing with cattle. I again must implore Your Honor and I ask this most seriously, I want a fair trial.

Now, the prosecution wants to see to it that we don't get it, if they want to see to it we don't get it, let them rise and say to the Court on the record and I protest again, Your Honor.

THE COURT: Mr. Schiffer, Mr. Schiffer, throughout this trial the Court has asked you if you would please just be more logical and not so loud in your argument. There is nothing served in arguing these matters so terribly loud.

MR. SCHIFFER: Your Honor, I didn't think I was speaking too terribly loud. I said before, as I said before something when you stand at the rostrum and address the Court or a witness, for some reason there I feel a dead-end there somewhere as far as the voice coming back to me. If I have been speaking loud it certainly has been inadvertent.

Let me say this, Your Honor, as far as my logic is concerned, the United States versus Berger, that is my logic. The Court, the United States Supreme Court has more logic. I don't take logic from the prosecution. I take it from the Court. The United States Supreme Court has said when they should not do so. They have voiced the spirit of that by decisions and all the other countless decisions and I have asked Your Honor a hundred times on this record to do something about it to protect us here and make sure that we get due process and in not a single instance has Your Honor said anything to the prosecution and cut it out and stopped it.

E1 2
2A fol.

stop this interferring with the judicial processes.

Not once has your Honor done anything but say to the prosecution, I expect they will obey the law. Well, your Honor, every time they have disobeyed it, we have brought it to the attention of the Court but again nothing happens. What are we supposed to do, counsel in the case when we look for due process? We can only look to your Honor, so your Honor is the only one with the power to correct the situation, but the Court refuses to do it.

Now, what happened today is precisely what my co-counsel, Mr. Branstetter, said, these are the things that were exposed at Nuremberg. These were the things exposed about the Russian system and the Mussolini system

THE COURT: All right.

MR. SCHIFFER: We don't know how to prevent it, and we ask your Honor again to prevent this trenchcoat observation of the jury and --

THE COURT: (Interposing) Have you made your motion, sir?

MR. SCHIFFER: I am making a motion.

THE COURT: Make your motion.

MR. SCHIFFER: All right, sir.

THE COURT: Make your motion.

MR. SCHIFFER: Because the government is throwing its full weight through the marshals of intimidation about this jury, I ask your Honor that you finally do something

2a-2

positively to prevent it from re-occurring. I also move for a mistrial. I move for a withdrawal of a juror. And I say to your Honor that in no case I have seen in 30 years has there been so brazen an attempt by the prosecution to violate the due process in this case and I ask your Honor to take the proper steps to prevent it.

THE COURT: All right.

MR. BROWN: Your Honor, all motions and all objections for all defendants?

End 2a
3 fls

TK 3 4
EW 1

THE COURT: Allow the motion for mistrial to be overruled.

MR. HAGGERTY: May all defendants have the benefit of Mr. Schiffer's motion for a mistrial?

THE COURT: Yes, sir. Gentlemen, I think that the use of four marshals for waiting on the audience in the case, we do have a large audience, we do have the courtroom filled with people and others waiting to get in, it is necessary to maintain order at all times in the courtroom, I believe that four marshals would be adequate for that purpose. That does not include, however, the necessary marshals to wait on the Court and to wait on the jury.

Now, gentlemen, with regard to the matters pertaining to the jury. The Court this morning in its chambers with all of the doors closed in its chambers, nevertheless heard Mr. Hoffa speaking most loudly.

MR. HOFFA: Yes.

THE COURT: Well, Mr. Hoffa, now, let's let the Court make its statement. The Court heard Mr. Hoffa speak most loudly in the halls and in the corridors throughout this trial, that has been going on, there has been this extremely loud shouting and comments and statements made out in the halls and in the corridors during every recess and at the beginning of court and at the end of court.

This Court has attempted to the very best of its

ability, to the very best of its province, to have this jury try this case solely on the evidence and the instructions of the Court.

Now, when these extremely loud statements are made in the hall and corridor at every recess, at the beginning and end of every court, something has to be done to protect the jury from this sort of statements and comments.

Gentlemen, when I heard these extremely loud arguments or statements, whatever they were, out in the corridors, apparently it was out in the front corridor, the best I could determine, I called the marshal to find out what the difficulty was and the marshal advised me that Mr. Hoffa was complaining very bitterly about the marshals attending the jury and advised me that there were four marshals attending the jury.

Now, gentlemen, let's proceed with the trial of this lawsuit on its merits. Let's have the jury come in and continue the argument and let's discontinue these extremely loud arguments, both in the court and outside of the court.

MR. BERKE: Would your Honor give me ten-minutes notice?

THE COURT: Beg your pardon?

MR. BERKE: Would your Honor give me a ten-minute notice before the argument--

THE COURT: (Interposing) Yes.

MR. BERKE: Thank you.

MR. REDDY: As I understand, your Honor, the defense has an hour and 25 minutes.

THE COURT: One hour and 25 minutes.

MR. ALEXANDER: How much time does the government have, your Honor?

THE COURT: Two and a half.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

THE COURT: Good morning, ladies and gentlemen. All right, Mr. Berke.

MR. BERKE: If your Honor please, Judge Wilson, ladies and gentlemen of the jury: Words fail me at this time to tell you the extreme amount of pressure and the heavy burden that rests upon my shoulders for me, a Chattanooga lawyer, unaccustomed to cases of this magnitude and duration and I can say to you truthfully that on several occasions I felt that I did not have the sufficient power or ability to come before this jury except for the fact that being deeply religious as I am, and knowing that in everyone's crisis, when you have sickness, when you have a death, when you have a momentous decision to make, you then call upon your God for help because without His help somehow you don't

seem to have the courage, but I prayed that my God and your God would see to it that some way He will give me the courage to talk to this jury, knowing full well the responsibility that rests upon my shoulders. It is not a responsibility that I want or treasure.

Certainly this jury must realize with the whole world watching this trial, even though this jury was kept away from the news of the case, and rightfully so, even though this jury was kept away from the radio and the television about this trial, I know that this jury knows that you today or when you get through with your deliberation, will have to do the very same thing I have done, you will have to clear that lump in your throat, you will have to look for divine guidance.

We have selected you because of our investigation that we have a right to make and we have confidence in you and it is a compliment to this jury that we, as attorneys, have placed in your hands the lives and liberties of citizens of the United States.

Now, with that in mind, and feeling now like I have the help that I need, I want to review briefly with this jury in the little over an hour that I have to sum up the arguments, to make it abundantly clear to this jury that the responsibility that you have, and I know that you will fulfill in the light of the evidence, you will come to only one

conclusion. The record books and the newspapers are full of cases where innocent people have gone to the gallows, have gone to the penitentiary, because someone somewhere has told a falsehood, has exaggerated their story, because some way somehow the attorney in that case could not supply that honest jury in that particular case with a motive or the reasons why such testimony came about.

Therefore, it became the policy of the law that it is better to release numbers and numbers of guilty persons than to convict one innocent man. No greater crime can be committed.

How many times have we read where after a man has served so many years the truth finally came out because the jury was unable to see the motive to start with. How fortunate are we that in this particular case we could supply the jury with the facts and a motive.

End Tk 3
Tk 4 fls.

Now with that background, let's see what we have.

In October, 1962 before this trial started, many significant things point to the fact that this entire thing is a complete fabrication, a fabrication to the extent that they have taken certain well-known established facts and added to those facts just enough fabrication to make it appear that the fabrication justified by the facts actually make it just what it is.

In October, 1962 there was a man, a man that the prosecution says was a confidant of Mr. Hoffa. Mr. Hoffa was the president of the International Union. Mr. Partin had no stake in the International Union. He was one of the many thousands of business agents of the local unions scattered all over the United States and on that time and at that place we know he was incarcerated in a Baton Rouge jail.

Now, we don't know that from Mr. Partin. We asked him about that. He said, no, he didn't know how they made the arrangements. He couldn't tell us anything about that. We had to bring the District Attorney and Mr. Daniels, Grimsley, and others to prove that at the very time he was in jail without bond and Mr. Neal there objected when I questioned him if he wasn't in jail on a non-bailable offense and the Judge then struck the statement non-bailable offense but when the truth came out he was in jail without bond and he couldn't make bond.

Now, what was his condition at that time? In October, 1962 and my fellow attorneys have mentioned this to some extent, but he had the following things hanging over his head. Will you listen because it is important.

On October 24, 1961 he was indicted for forgery and to this day that case hasn't been tried but he had that hanging over his head.

Two or three motions previously and on July 10, 1962 he had this 26-count indictment which incidentally was the only thing that he admitted that he had. He was in jail for kidnapping. No bond. With no bond. He was under investigation on a perjury charge which on January 21, 1963 he was indicted.

On September 26, 1962 he had a manslaughter charge in the state of Alabama where he had left the scene of an accident and left a service man dead on a road. He had his divorce suit pending which had been tried or--, had been pending for a long time and hadn't yet been tried, and he had had numerous contempt citations against him which was introduced and which he had admitted for failure to support his children.

He had taxes due not only personal taxes of his own but taxes by reason of the truck stop. Half of $9,700.00, I don't know how much his other taxes were, we couldn't get into that.

Now, with that situation he contacted Mr. Daniels and he had a deal to make. Then he contacted Mr. Duffy because they needed the United States Government to come in on this. And they contacted Mr. Grimsley and they contacted Mr. Sheridan.

Now, what does he say? Now listen to this. He says they told me after I had made arrangements and called Mr. Hoffa although in the testimony he didn't remember whether he called Mr. Hoffa or Hoffa called him, he wouldn't agree on that, but he said they told me to keep my eyes and ears open for jury tampering.

Now, the jury hadn't been selected. The case hadn't started yet. Where in the history of Mr. Hoffa or any of these people has jury tampering ever been mentioned or thought about? Was jury tampering implanted in his mind to work out a case against Mr. Hoffa? Otherwise why mention jury tampering. They brought it up. So he calls Mr. Hoffa and although for many weeks we stood here under the burden that Mr. Hoffa wanted him up there and needed him up there, we finally got the recordings in there and it was a case where Mr. Partin tried to get himself invited up there.

Now, I will show you I think before this is over that there was no jury tampering. That there was an effort made to establish a jury tampering case. In the early stages of Mr. Partin's examination he was asked on Page 3624, did you

have any recording machine or something to take down everything that you heard so you could review and impress your mind with it? No, sir, I did not.

Don't you know, ladies and gentlemen, that where they had already started using recording devices and they were trying to trap Mr. Hoffa, don't you know that if Mr. Hoffa at any time was making any statements about jury tampering they would have had those recordings here?

End 4
Tk 5 fol.

We don't know what the other recordings are, but if they were recordings that in any way implicated Mr. Hoffa, you know they would have introduced them.

Now, doesn't it seem strange to the jury that we should be the ones fighting to get the recordings in here when they took it? If they wanted this jury to know everything about the case, why didn't you bring them in here instead of hiding them for weeks and why did we have to call the District Attorney down there and why did we have to call Mr. Daniels and why did we have to slave under the burden of getting them in here when your Mr. Partin said no, he doesn't know anything about recordings?

Was he telling you the truth at that time?

Now, he comes up here, he comes to Nashville, and when he comes to Nashville, what happens? Mr. Partin testified for Mr. Hooker, for the government, so to speak, and if I had more time I would have loved to have read it, I would like to read to you the direct statements that he made without equivocation that on such and such a date such and such was said, and I had planned with this jury, but time doesn't permit it, I have too many other things to cover, but I had planned to take statements that he made for Mr. Hooker on these conversations and then take statements that he had made for Mr. Silets and Mr. Branstetter and others and then put these statements together and show you that almost word

for word, 10 or 12 lines of statements almost word for word, if that wasn't a memory thing I don't know what it was. They say it wasn't. You need look no further than Mr. Partin's own statement about whether or not those markings on top of the hotel bills were the clues to anything at all, and I read you his statement -- this jury can't remember these things, you have heard too much and it is my duty in final argument to call your attention to this.

On 3664 when I questioned him and I said, "Do you need to look at these markings at the top, at the top of the thing in order to get a clue from what you had to testify?

"No, sir. I am not getting a clue to the dates, I am getting a clue to the event regardless of dates."

He was looking at the top of those markings to get a clue as to the events. That is not me saying it, that is their witness saying it, and I will show you that that is true from the events that took place later.

Here Mr. Partin says, for example, on November 7th, which was about 10 days before Mr. King met Mr. Paschal at the spring at Mr. Paschal's suggestion, and Mr. Hooker questioned him about the events of November 6th, November 6th, on record page 3281, Mr. Hooker was questioning him, he wasn't confused. On November 6th he would tell you that the meeting was already arranged at the spring in back of the farm when it would have been impossible for Mr. King, for anybody, to know that a

meeting was arranged at the farm, so to speak, at the spring there.

Mr. Hooker says, "Who was speaking now?"

"Answer: Mr. King.

"Question: Mr. King. All right.

"Answer: And his boss told the highway patrolman, told him he understood his wife was on the jury, he wanted to be sure there was a fair trial. King told me, 'Now, listen, November 6th,' King told me he thought the highway patrolman still would go along. He said he was supposed to meet him the following Sunday at a spring in the back of a farm."

And he keeps going.

Now, I will tell you what happened, and it is very simple. All I need to do is call an intelligent jury's attention to the fact, that is what you want, Mr. Partin was summoned to the grand jury. Mr. Sheridan had Mr. Partin in his hip pocket. He could have done with Mr. Partin anything he wanted to. They had Mr. Partin over a barrel. He was summoned in the early part of February, 1963, before the grand jury. The grand jury was in session for about three months. They couldn't afford to have Mr. Partin come in and tell a story that early in the procedure, the government hadn't yet gotten in all of the telephone calls, the government yet hadn't convinced Mr. Paschal that he had better tell it like "we say" or out goes his job. They hadn't yet convinced

Hazel Fulton, who on three different occasions had said no jury list was read over the telephone, they had worked on her, they hadn't yet gotten through scaring Pitts and his wife that they were to be indicted, they hadn't yet told Walker, the policeman, that he could be indicted and he could lose his job.

So the only thing they do, he says he takes the Fifth Amendment and puts the blame on Bufalino, who has no control over him, and doesn't want you to believe that Sheridan and the government are directing their very activities.

Now, had he testified in February and had his evidence been contradictory we would have been entitled to the grand jury testimony, just as we were Hazel Fulton's testimony, and it was delivered to us, and they couldn't afford to have Partin's testimony given to defense counsel, so he takes the Fifth Amendment so he wouldn't have to testify at all.

Mr. Partin never did testify as to any facts before the grand jury. Now, what happened? Under his own testimony he had between six and eight that he would admit to, six to eight three to four hour conferences. Where? In Washington, in Columbia, in Atlanta, in Chattanooga, where his testimony was gone over and over and over.

Now, when Mr. Partin was first brought on the witness stand, I want you to recall that before Mr. Hooker

could give him the hotel bills piece by piece and in the absence of the jury, but I brought it out when the jury was here so I can discuss it now with you, but in the absence of the jury and before the hotel bills were taken out of Mr. Hooker's briefcase, and two days before the jury finally got to his testimony, he told us that he recalls when Mr. Hoffa was shot in the courtroom in Nashville on December 5th, and he also told us that he was in Nashville beginning October 22nd, 1962, and remained each and every day until he was shot.

That is how weak his memory is and that is the reason they couldn't bring him to the grand jury and here is what he said, and this evidence can be found on page 3660, quoting from 3033, "In order to refresh your recollection you were in Nashville registered at the Andrew Jackson Hotel beginning October 22nd?"

End 5
6 fls

If that is the same receipt, this is the same receipt, that is correct, sir. And you were still in Nashville on December the 5th. I will have to look on it to be sure. Well, could I ask you this, do you recall, to refresh your recollection on that, do you recall a shooting in a courtroom in Nashville? Yes, I do. Were you present then? Yes, I was.

Had you been present each day? From the 22nd through the 5th or the 4th whenever this occurred? I would guess I had, sir. I couldn't remember.

Each day then you were staying at the Andrew Jackson Hotel. Is that correct? Answer: I guess so.

Now, what are we dealing with here, ladies and gentlemen of the jury? What kind of a game are we playing here? Are we playing with the lives and liberty of these defendants on a guessing game? Or a man that doesn't know that he had checked out on the 11th, on eleven different occasions during his 2-months stay there in Nashville. Imagine a man that doesn't know that. And he told us before all the exhibits were brought in that he had been in Nashville each and every day. What kind of memory does he have?

Now, then on the question of his interests, we represent Mr. Hoffa and I am sure this jury will remember on many occasions how the Court instructed the jury and said, now these statements of these other defendants, the acts of

the other defendants are not competent evidence against the other defendants unless you can see from evidence other than that particular evidence that there is criminal agency of some sort by other proof and we objected. We objected not because we didn't think that it was possible to do it. We think as Courts have previously said and we think human beings, the Court thinks this jury can do it, I hope the jury can and we have to rely that the jury has the ability but when you have so many statements coming from so many, it is difficult to keep them separated.

But what evidence is there as to Mr. Hoffa than Mr. Partin? Has any witness said that I saw Mr. Hoffa do anything, say anything, be anywheres, act in any way other than a normal human being? Who besides Partin has uttered one word against Mr. Hoffa?

And another thing that is significant, look at how many statements Mr. Partin says he heard made by these parties. And isn't it significant that in not a single statement does Mr. Partin say that there was anybody else present at the time. In other words, he matches himself up against any other defendant but not to or not any other persons or individuals.

So he comes along and he says all these things happened and he says that he reported every day or daily when he was here to Mr. Sheridan. Now, what does Mr. Hoffa say

about this? Mr. Hoffa is entitled to be heard. This is not a one-way ticket to the penitentiary. He has the right, he has his rights and this jury was questioned as to their prejudices, can they give the defendant a fair trial? I think you can. Then how can you compare a man that has worked by his own bootstraps with a seventh grade education and rose to the position of the president of the largest union in the entire world? Almost three times larger than the next union, the Auto Workers Union, below that of his union, isn't he entitled to some credit on his oath? Nobody says he wasn't. And Mr. Hoffa says that on the 19th, somewheres near then, it could have been the 17th, the 19th, somewheres near the last part of it, and Mr. Hoffa couldn't give you the exact dates, it is impossible. It is impossible, there is no reason for him to know, but he is trying to be fair with you, and he said he had this discussion with Mr. Partin and he told him he has got to go down there and attend to his affairs. He has got to stop all this running around. He has got to stop tearing up the union. And he gave him a bawling out as Mr. Hoffa is capable of doing, and he stormed out. What happened?

On December 19th, somewheres on or about that time, Mr. Sheridan prepares an affidavit, but what does the affidavit say? The affidavit says that on November 7th, there was evidence that an approach had been made to a colored

juror, one that Mr. Hoffa said he had in his hip pocket. Now, if Mr. Partin was reporting daily to Mr. Sheridan, how is it that that juror stayed on the jury from November 7th to December 20th? The affidavit was made on the 19th. I asked Mr. Partin when did you make this affidavit? He didn't know. He thought it was around two or three weeks before his last stay. It happened to be on the very last day of his last stay. Those are just some of the contradictions that he had.

Now, is Mr. Partin supported? If Mr. Partin had reported all this to Mr. Sheridan, if they had all this proof, if they had what they were looking for or trying to get, if they already had it and didn't have manufacture it after getting it, the telephone bills and tying into this order, wouldn't Mr. Sheridan have gone on in chief? Oh, Mr. Hooker will say, well, they would have objected because Mr. Sheridan, what he would say would have been possibly hearsay but Mr. Sheridan could have said, yes, he reported. He reported certain events to me and on certain days and on what days regardless of whether he was permitted to say what he said or not, but he would have corroborated him in some extent. Now, what is the rule?

You have heard the remark about Jencks statements, statements that Mr. Neal would give to us after a witness would testify and I don't want to spend too much time on this, but after a witness testifies and before he is cross-examined,

Mr. Neal gave us statements. Statements that these witnesses had made to the Department of Justice officers, FBI and others.

End Tk 6
Tk 7 fls.

We know they keep records, if they have any records. Don't you know that even if Mr. Sheridan didn't want to take the stand he could have given us, if he had any notes, the notes, any statements, if he had any statements, but he didn't do it.

Did Mr. Sheridan come in and deny that he had threatened to indict Mr. Tweel here, that he threatened to indict Mr. Pitts, that he threatened to indict Mr. King, that he threatened to indict Mr. Parks? He could have put him on in rebuttal. He was here every day and, as I remember the testimony, Mr. Neal, you, yourself, threatened him and you didn't have the courage like Mr. Bufalino did to get on the witness stand and face the acid test of cross examination.

What was happening for three whole months this Grand Jury was meeting? They were threatening these people hoping they could get somebody, someone to testify against them. Now, what situation do we have? What has our law enforcement gotten down to?

Here is a Mr. Paschal, here is a Mr. Walker, still in uniform, admitted perjurers. They come in to a federal court and Judge Miller, and he is a fine judge, and he swears nothing like that happened. He swears that three different times on three different occasions and then he has to admit that, "I was told that I might lose my job."

Do you want your life and your liberty, do you

want your officers perjurers to stop you on the highway or would you want an officer that commands respect and dignity?

What about Mr. Partin? Here is Mr. Partin with a record that he has and what does he tell you? He tells you that after 1942 he had lived a model life and the District Attorney had written a letter for him stating that for the past 17 years he had lived a model life and the Sheriff's Department and a congressman and a senator, all of them gave him an excellent character and an excellent reputation and then he also tells you on cross examination, "Haven't you posed as a federal officer?

"No, sir."

Now, listen to what he says about honors he holds in the state of Louisiana with his record, he says, "I am a state fire marshal and also the state police honorary badge in Louisiana and I am a deputy state fire marshal in Louisiana. I don't have to pose as one. I will be glad to show you my credentials, sir, if you would like to see them."

And then I asked him if he didn't pose as a federal officer and stole a gun which he pawned for $20.00 and he couldn't very well remember about that.

Has our law enforcement gotten down to the state where we pin honorary police badges on men like Partin and make state fire marshals out of him and give him credentials and letters of recommendation?

Now, what about these officers? Here is officer Walker that gets this poor man Parks. Oh, Mr. Neal says, "We had all these people under surveillance." But what is the proof in the case? That after the Walker-Parks-Fields incident that one night when they went up there to his house, during the course of this trial, Fields, Mattie Leath, none of those people were interviewed until March of the next year, but Walker had already set him up. Walker, who admitted that he had told an untruth, and he is still wearing a police uniform, Walker gets him in a car, Walker makes all of the arrangements except the money arrangements, and when they drive out to Mattie Leath's it's not Parks that goes out to Mattie Leath's, it's Walker that does it, and where are these two strange men that Fields says was in that office that night when Walker was there after closing hours? Walker never did identify them. Were they already trying to set a trap for Larry Campbell's uncle? Oh, they say no.

Did Walter Sheridan deny that they took a man like Shobe that we had to expose, a man with a bad criminal record, not quite as bad as Partin's but still a pretty bad record, and show that Shobe was in the employment of Walter Sheridan. He knew every girl that he had working in that office. He told you how much money he got out of it. He told you that Walker was a federal agent. Well, Walker denied it but what about Mr. Sheridan? He didn't deny it.

Here is Paschal riding around in his patrol car. They have saved their lives, they have saved their jobs. Now they want to save the life of Mr. Partin and put his (indicating Mr. Hoffa) head on a chopping block for you to chop off, but that is the fundamental wonders of our system.

End 7
Tk 8 fol.

They still have to get the jury to do it. And the Court will charge you that these defendants are presumed to be innocent. Now had bad do they want to convict these people? There are between eight hundred and a thousand United States Attorneys in the United States already drawing pay, and what do they do? They hire the best lawyer there is in the State of Tennessee and he is, and he is a good friend of mine, a man that can come up with nothing but just a suspicion and make the jury see that the crime was there being committed, a man that has that ability, they weren't satisfied with the many Attorney Generals they have all over the country, they have got to hire another one, and he will have the last argument in this case. We will not be permitted to reply to Mr. Hooker's argument, but the same divine guidance that compels you to decency and honesty and the law that says that you are to presume the defendants innocent, and their innocence stays with them until you walk into that jury room and start deliberating the case, and because we have confidence that this jury is an intelligent jury, we know that whatever argument, whatever glib language Mr. Hooker will use, this jury will be able to see and answer that for the defendants because you take with you the presumption of innocence and the burden is on the government to show that these defendants are guilty beyond a reasonable doubt.

A reasonable doubt? Would you want to sit there

any one of you, Mr. Bullen, any one of you, would you want to sit there and have a man of that character and caliber unsupported except by a few innocent phone calls, phone calls which nobody denies, they brought in a few, we had many, they were insignificant, they meant nothing, Mr. Partin would have you believe and this is a small thing, but how many cases are won by a jury on one small point and listen to this, Mr. Partin said that Mr. Dorfman went into a telephone booth at nighttime, late at night on the last call, and kept the door open and read off the jury list.

Why, don't we know as a matter of common knowledge that you don't turn a light on in a telephone booth until you close the door where you can see what you are doing. That when you have got the door open so Mr. Partin can hear Mr. Dorfman, Mr. Dorfman can't read and it didn't happen. They forgot about that. It is a small detail but it is important. You close the door and the light goes on. You open the door and the light goes out.

Isn't it strange that everybody, here is the president of an international union, a man that works 16 to 18 hours a day, a man that his attorney here in Chattanooga, I can't go to see him unless I have got an appointment, regardless of how busy it is, yet Mr. Partin can come and go as he pleases. As if Mr. Hoffa doesn't have anything else to do.

It is true, Mr. Hoffa is faithful to his unions, to his local unions and he will try to work with them, but he is just one of six or eight thousand of these unions around the country. He is not in any way under the control of Mr. Hoffa unless he does some of the things which we show here.

Oh, Mr. Hooker will say, why their own union cleared Mr. Partin. Well, now, did they? What happened? When he was cited before the union, the safe was gone. The records were missing. Don't we know as a matter of common knowledge and I know you do, Mr. Hooker, that the union doesn't have subpoena power. It is not a court. It can't get to telephone records. It can't get the bank records in. It can't do anything. So what happened? When they couldn't get the evidence before there they went to the United States Grand Jury.

Oh, Mr. Reddy said this is just an ordinary case. We do this thing impartially. We see an offense committed. We go ahead and prosecute. Why haven't they prosecuted this 26-count indictment? Why haven't you or the United States Attorney indicted Mr. Paschal, indicted Mr. Pitts, indicted Mr. Walker, when they come in and admit perjury to you? What special character, what has Partin done in addition to getting a bad conduct that deserves him the right to be given immunity from his income taxes? Why did Mr. Bloomenstiel have to pay off his part of it? Is that the reward you get

for the conduct and the life that he led?

Now, let's see, here is Mr. Partin, and Mr. Partin says, and I want to find this because it is very interesting.

End 8
9 fls

He told us on record Page 4370, he said he was a single man and he had a right to do the things he was doing.

"Question: Do you have an independent recollection of how many there were?"

We were talking about all those long distance calls to his girl friends, over 31 to Childersburg, over 20 to Hattisburg, Mississippi, where that little young girl lived.

He answered, "No, sir. You said I had 90-something, I didn't think I had that many.

"No. I am talking about this one bill.

"Answer: I would have to look at it, sir.

"Question: And can you tell us by looking at the bill to whom each one of these calls was made?

"Answer," Listen, listen to the man they want you to believe to send these people to the penitentiary, hear his answer, "Oh, no, sir, I am a single man, I may have called a lot of girls."

Here is a man separated from his wife for three years and the goverrment has the audicity, and I don't recall whether the jury has seen this or not but I want to show it to you, on November 14th, 1962, in Government Exhibit No. 101, it says on here, "Mr. and Mrs. E. G. Partin", "E. G. Partin and Mrs. E. G. Partin" had registered in this hotel. Does this look like he is on government business? What kind of business is it?

Now, they say they are fair to Mr. Parks. Here is Mr. Sheets that comes up here, an excellent shorthand reporter. He takes it down like this man does, he makes excellent notes. What does he do with those notes?

Now, I want you to think about it because some day you or one of your loves ones will have that difficulty. He takes those notes and he destroys them and what does he do? He writes out his interpretation of what the notes say. Do we want to be prosecuted by what Mr. Hooker and what Mr. Neal interprets this evidence to be or do we want you to interpret what it is from the evidence that actually is here? No, Mr. Sheets destroys it. Wouldn't that be the best evidence? Yes.

Mr. Sheets would have you believe no, but we weren't even dignified with Mr.Sheridan's explanation of nodes, no notes, what he did, where he saw him and what took place.

Now, here is a man that they want you to believe. We had to bring Dr. Magruder in. Dr. Magruder saw him in 1960 or '61, waited on him some four or five times and he didn't make the other appointment. Listen to his evidence.

"Do you know a Dr. Magruder?

"Magruder?

"A psychiatrist, Louisiana State Mental Hospital.

"Answer: Oh, I have never been out there so I don't know if he is a doctor out there or not. I never have

been on the place.

"Question: Do you know a Dr. Magruder?

"Not off-hand, no, sir.

"I will ask you if you didn't go to Dr. Magruder on Wilburn Avenue, Baton Rouge, Louisiana, and that Dr. Magruder is a psychiatrist?

"On what?

"On Wilburn (Spelling) W-i-l-b-u-r-n Avenue.

"Oh, I don't believe there's a street named Wilburn Avenue in Baton Rouge. I have been there a long time. I don't even remember a street like that.

"Did you at one time request some of the members of your executive board to go by and talk to Dr. Magruder with you, the psychiatrist?

"Not that I recall. I don't know what I would be doing with one of them. I know some other people needs it worse than me, you, for example." And he said, "You" and he is pointing to Mr. Branstetter, an insulting remark made to one of our fine Nashville attorneys, telling him he needs to go to a psychiatrist when all the time he knew deep in his heart that he was lying about it.

Do you know that a man who had been to see a psychiatrist, if he is in his right mind wouldn't forget it, but he had you believe that he don't know, he never heard of the man, and yet the secretary had taken him out there on

several occasions, she had made appointments for him. Is there any doubt whether he did or not?

And he says, when I asked him, all right, when I asked him if he wasn't informing, I said, "What do you call it if you don't call it informing?

"I would call it a fight for your life with Hoffa."

What will a man do to fight for his life? A man that would kidnap children and steal them away from its mother, not his own children either? Can you picture the anguish and the heartaches that mother had until those children were returned safely? I believe deep in your heart you do. I hope you never have that experience but you must know. How cruel can a man be? And here we have got our man. Oh, he is not guilty of kidnapping, no, the Attorney General, the District Attorney there who said he led a model life, he dismissed the suit. Why? He made a deal with them. When did he dismiss it? The latter part of December, 1963, one month before he came up here to show Ed Partin that, "We are carrying out our bargain, we expect you to carry out yours."

End 9
Tk 10 fol.

Now, he says all of these things have happened. Mr. Neal says why, here is Mr. Hoffa, he is directing his attorneys here. I say it is a compliment to be directed by a man like Mr. Hoffa. I think we can learn a lot from Mr. Hoffa. Here is a man dealing in contracts daily. Court reporters and transcripts on every negotiation agreement they have, with big business, a man that studies transcripts, a man that is able to marshal the facts, yet Mr. Neal would have you criticize a man because he is telling his attorney, ask this question, I think it will help me, why does Mr. Neal resent Mr. Hoffa wanting to defend himself?

Do you resent him because he has got the goods to fight? We may not agree with everything Mr. Hoffa does. I myself might not agree with everything Mr. Hoffa does as the president of the international union, but I know justice, and we're not trying a president of an international union. I wish it were some way that it was within my power to in some way to convey to the jury the type of a man that he is. You can't do it from the witness stand. It is hard to convey a man that is the father of children, it is hard to picture a man like Mr. Hoffa, you wouldn't believe it, rolling on the floor with his grandchild and playing with it. You wouldn't think that a man of that type would be so concerned for the very every movement of his daughter and his son and his family and his wife. We are not trying a man because the

Attorney General of the United States doesn't like him. We are not trying him because he is one that works with big business and works for his employees.

We are not trying him because he is the head of a labor union and isn't it ridiculous, here he has a Nashville trial, how silly can you get, here he has got a Nashville trial which is a misdemeanor and it is a small case, can possibly merit a small fine or some small sentence, would you think that a man with his intelligence would risk his whole future, would risk his life, would risk his reputation and his family's reputation to try to tamper with a jury which is a major offense? To get out of a misdemeanor and misdemeanor which they couldn't convict even though they had a stool pigeon in the midst and they had a man who was funneling to Mr. Neal and he didn't deny it, funneling information about what they were going to do next because Mr. Neal appeared that he was psychic and he was smart and he knew these things, when he put the very un-American tactic of putting an enemy in your midst and he calls that justice. And he says, there is the scales of justice, the scales were meant for equal opportunity, not to come in and rob the defense of secrets and the defense strategy and based on that and with all that, the majority of the jury still decided that Mr. Hoffa was not guilty of that.

Do you think that Mr. Hoffa would spend $100 to

fix a $1 parking ticket? That is what it amounts to. Is there any basis for it? It is true if you want to believe Mr. Partin then we have no recourse, but we don't think that clothed with a presumption of innocence and knowing that you are to find this defendant guilty beyond a reasonable doubt that you can say that you can take Mr. Partin and send anybody off, let alone Mr. Hoffa.

This case was brought here to this city because the court and the defendant's attorney wanted it moved from Nashville. We want to get a fair trial with a fair jury and we selected this jury and we are confident that this jury will not be biased and prejudiced. That you will not get into the argument between the Attorney General Robert Kennedy and Mr. Hoffa. Only insofar as it shows the zeal, the amount of expense, the racketeers and perjurers that it will use, other than the telephone people, other than the telephone people which had the records and it was no dispute about it, no complaints, where have they introduced a single witness that hasn't admitted they committed perjury? Here is a man, Mr. King, if you wanted to work for the government if you want to get up there and perjure yourself, you would be home today with your family but he has got the good American blood, he is not going to do it. And I don't want my police department or the police department of the state or even the State of Louisiana polluted with perjurers. Is that the qualifications

for holding an office? A man upon whom you have got to depend a man that you want to protect your life and your property and they have been given the ultimatum, you testify or else.

Now, how clear is that? How much clearer do you want it when you understand when Mr. Partin who forgot a little incident like running over a serviceman and leaving the scene of the accident, and when I questioned him, he says, I'm not going to answer that. Now I'm going to explain that answer, but --

THE COURT: (Interposing) Let's stay within the record.

MR. BERKE: Yes, sir. This offense took place in Alabama. Could it be that because he didn't have the protection of those that gave him protection in Louisiana that he couldn't very well say anything else?

End 10
11 fls

How is it, your Honor, and gentlemen and ladies of the jury, that a man who was indicted for manslaughter will forget an incident like that and it just happened? I don't understand it. Here is a man that remembered in detail all of these things, things that couldn't possibly have happened, statements like Larry Campbell went to Nashville and fixed a colored juror because he was related to the colored juror. Other nonsense. That the colored juror wouldn't go against Mr. Hoffa because he wouldn't go against his people.

Is he confused with this case where there are colored defendants? There were none in Nashville.

He remembered all of these things, yet he couldn't remember, and I will give you the page numbers if you want it, I have got it here, he couldn't remember a single place that he worked except one where his kinfolks are now working and he worked there for a short time but he couldn't remember a single other employer. He couldn't remember the burglary charge that was against him when he went into the service. That was testing his memory. And he couldn't remember the burglary charge that he got into while he was in the service. He couldn't remember the various arrests in Washington and Oregon and back in Baton Rouge, and he didn't remember escaping two different times and finally he said, "Well, I just walked off. I don't call that escaping." And what kind

of evidence is that? You are intelligent human beings.

Oh, he has led a model life but he couldn't remember being arrested for non-support in 1954, he couldn't remember the various citations for contempt that were shown him. He couldn't remember those. He couldn't even remember the date he was married. Now, that is strange. It is seldom in the divorce cases that we try that they come in and that they couldn't tell us the date of marriage. That is very strange. He says he couldn't remember it.

Now, with all of that the government wants you to believe that here is a master mind, here is a man that is worthy of belief, yet Mr. Neal in his zeal has to admit, "Well, he don't say that he is the best citizen." Oh, that is putting it mildly.

Now, if they knew or if they were trying to build up a case, if something was really happening, wouldn't they have had some officers there, some decent people to come and say, "I saw so-and-so do so-and-so. I saw Mr. Hoffa do that."?

Now, Mr. King knew he was under surveillance. Mr. Neal in his argument said all the people were under surveillance. Mr. King says he is under surveillance now and he goes ahead and in response to Mr. Pitts he goes out there. He talks to Mr. Paschal and Mr. Paschal tells you, "There is nothing wrong." His wife wasn't approached. He wasn't approached.

Now, Mr. King is an intelligent man. If there was anything illegal, if he was going to commit the law would he walk right into a bear's trap? Would he go to a man that has got a pistol and a badge? Would he commit an offense right in the presence of an officer? That doesn't make sense, him knowing he is under surveillance.

Mr. Paschal comes in and tells a federal judge, he says, "I haven't been guilty of this." Mr. Paschal says, "No, there has been no improper approach." He says it three different times and finally, and finally it's called to his attention, "Don't you know, Mr. Paschal, just for what you did you could be indicted? You could lose your job. You could wreck your reputation. You could embarrass your wife and your family."

So after telling it for three different times that there was nothing to it, they finally prevail upon Mr. Paschal to come in and now work with the government. Now, he is home free. He has got his job. Who cares about Mr. King? It's his life or Mr. King's life. It's Mr. Partin's life or Mr. Hoffa's life. Are we matching lives here? Are we on a trading market? Are we trading evidence? And the same thing with Mr. Pitts. Do we have one single witness? Name him, name one witness, including Dallas Hall. Dallas Hall said he didn't do anything. He couldn't remember the seven convictions he was on. He didn't say anything.

Now, Mr. Partin, before he got his story straight, it was necessary for the attorneys to work with him six or eight different sessions going over these things.

Now, after he told you the story, I didn't know, I kept cross examining him, I kept handing him separate bills, he couldn't tell us anything. He couldn't tell us, and I have read the record and I want them to show me any instance where he came back and told us the same story that happened on a right day and on a right visit in a hotel. When I folded the top back he was lost. He complained bitterly. Mr. Neal complained bitterly. So I opened the tops up but I scattered them in front of him. He still couldn't answer the question.

He said, "Well, now, I think this is when this and this and this happened." And if I had the time, as I stated before, I could show you where from memory he repeated almost verbatim on at least six or seven different occasions.

End Tk 11
Tk 12 fls.

When he told Mr. Hooker that those things happened definitely on a certain day but when I questioned him, he couldn't do it at all. Now, Mr. Sheridan who worked up this scheme, Mr. Sheridan who is working for the Attorney General with all the charges that were made against Mr. Sheridan--

THE COURT: (Interposing) You asked me to notify you at ten minutes.

MR. BERKE: I have ten more minutes, Your Honor?

THE COURT: Yes, sir.

MR. BERKE: Thank you. In working with Mr. Sheridan, Mr. Sheridan certainly has some records. If he doesn't have any records, he has got some memory about it. If he has got any records we weren't shown the records. Now, what is the jury here for? The jury is here to find the facts and to know the facts. Now, did you notice we were the ones who tried to bring the facts in? Mr. Partin was their star witness. If he wanted the jury to have the facts couldn't he have waived his privilege as a husband of Mrs. Partin and had Mrs. Partin tell you the truth about this? He had that right. They had control over Mr. Partin. They had a marshal sleeping with him and when I asked him, Mr. Partin, aren't you under constant guard, he said, no, sir, I can go where I want to. There is nobody with me. I don't need anything. And then when we find the Lexington, Kentucky Hospital come in and he tells them that a guard had been

sleeping with him day and night.

Now, he would have you believe with no notes that he could remember everything that happened in October, November and December, 1962. I asked him one simple question, ladies and gentlemen, I said, Mr. Partin when did you arrive in Chattanooga? And he couldn't tell us. He didn't remember. Imagine, two or three days before he testified he couldn't tell us what day he arrived in Chattanooga. And then Isaid, Mr. Partin, why can't you remember little things like that, why couldn't you remember it just happened a few days ago. A week ago. I don't know how long ago you got here. He says the reason I couldn't remember is because I don't know whether I came in in the morning or in the afternoon because I drove a long way. Now, what kind of an answer is that? He couldn't remember what day he came because he don't know whether he came in the morning or the afternoon and he drove so long.

Here a man that couldn't remember two or three days before, or a week before, and would have you believe that he remembers all of these things. I don't think this jury will buy that type of evidence. That is the reason we wanted an intelligent jury. That is the reason when Mr. Hooker gets up and argues you have got the facts before you. You are here to protect the lives and liberties and to convict only when that presumption of innocence has been overcome.

It remains with him until it is overcome and his guilt established beyond a reasonable doubt.

So you take with you and constantly in reviewing the government's evidence you in protecting the presumption of innocence, are to question each of these items and it is only when the evidence is clear, crystal clear to you, only when you see no motive to fabricate, only when you find that there has been no perjured testimony, only when you find the evidence is so clear that you yourself could say well if I were sitting there the jury should do the same thing.

The other attorneys have mentioned the golden rule to you. It is not a rule of law. And it is not cited, but it is a law that we live by and in this case Mr. Hoffa is entitled to the same protection.

Mr. Parks is entitled to equal protection. The rich or the poor regardless of race, color creed or religion. If during the course of this trial any attorney has been over zealous and at times it appears that Mr. Schiffer might have been, you can't lay that blame to Mr. Parks. I'm sure at times I may have been over zealous, but we've got a fair judge, we've got a fair jury, we have got a jury that will not penalize the defendants for the over zealousness of their attorneys because after all, that is their job.

This is not an ordinary case. Here we have got the power and the might and the wealth and the desire and

the urge of the government to convict Mr. Hoffa. Why does Mr. Neal then criticize Mr. Hoffa for his zeal and determination to defend himself, to defend himself against the type of evidence that you have heard here displayed day after day.

End 12
13 fol

Is it any wonder that the attorneys at times become overwrought? Is it any wonder that I myself may have become overzealous because in representing my client, in understanding what justice is, in understanding the law of man and the law of God? How could anyone take witnesses like Shobe and Partin, take witnesses who have perjured themselves, how could government people threaten criminal indictments against people to testify? All of these things they have done and they tell you, "Please don't believe what they said in Nashville before Judge Miller, don't believe what they swore to the FBI agents, don't believe those things, please. Believe what they say here."

How can anyone in good conscience, how can anyone say that these men are guilty beyond a reasonable doubt when the defendants have shown you the reverse beyond a reasonable doubt that they are innocent.

The final moments have arrived. Mr. Hooker will make the closing argument and he will make a good argument, but the record in the shape it is in with the intelligence of the jury I am sure that he will not be able, as he has in many instances, obliterate fiction from fact. The facts are here.

You are the exclusive judges of the facts. The Judge tells you what the law is. The only safeguard we have is His Honor, the Judge, and you, the jury. Can you picture

what would happen to Mr. Hoffa if we didn't have, if we didn't have that buffer zone of a jury, if we were left to the tender mercies of the government prosecutors, of the government witnesses, and have them pass judgment on us? We want it from the facts, not as Mr. Sheets would interpret the facts to be, but as this gentleman that is sitting right here, writes it down to be. Not what Mr. Sheets or what the government or Mr. Hooker thinks the evidence reflects but what the facts really are.

There are a lot of people interested in this case. You are on trial just like these defendants are on trial because the whole world wants to see if in spite of what the government has done in this case if we still have a jury, a jury that is fearless, a jury that can go ahead and determine that regardless of what the United States Government wants, regardless of how bad they want Mr. Hoffa, that our American jurisprudence, our American system of trial by jury is more important.

Mr. Hoffa is an American. Mr. Hoffa has done more for the laboring class. A lot of people don't agree with him.

THE COURT: If you will, please draw your argument to a close.

MR. BERKE: May I have about one minute?

THE COURT: I have allowed you to go over your time.

MR. BERKE: I am sorry, your Honor.

THE COURT: All right.

MR. BERKE: I leave this case in your hands. There are some other things I have got but I don't have the time to say them. My time is up. I trust and my client has full confidence in this jury. We know you will not fail. We know you will not separate him from his family on the type of evidence that you have heard here.

May God bless you.

THE COURT: All right, ladies and gentlemen, let's take at this time a 10-minute recess.

(Thereupon, at 10:42 o'clock, a.m., a recess was had.)

End 13
13a fls

(Following the recess the jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. HAGGERTY: Your Honor, may I approach the bench with Mr. Hooker?

THE COURT: Yes, sir.

MR. SILETS: Could we have the reporter present, please?

THE COURT: Yes, sir.

(Thereupon, counsel for the respective parties assembled in front of the bench and the following occurred:)

MR. HAGGERTY: Your Honor, I have been advised by Mr. Silets that he has conferred with Mr. Hooker.

THE COURT: What?

MR. HAGGERTY: He has conferred with Mr. Hooker and he has been informed by Mr. Hooker that he intends to argue that Mr. Sheridan was offered as a witness but over the objections of the defendant he was not allowed to testify.

MR. HOOKER: Wait a minute. What I really said was just let him make any objections that he wanted to make but in frankness to the Court I do expect to bring that up because they have opened the question up.

MR. HAGGERTY: Now, I say it to your Honor that the record is this, that, first of all, Sheridan was not offered in direct proof by the government. They attempted

to offer him in rebuttal. Over objections of the defendant, which were sustained by the Court, he was ruled to be an improper rebuttal witness.

Now, with that fact on the record I say that Mr. Hooker should not be permitted to go into that question. If he does I intend to make vigorous objections, objections not speeches, in the presence of the jury, something I very much dislike to do, but, if necessary, I shall do it.

THE COURT: What would be your basis, Mr. Hooker, for that?

MR. HOOKER: The basis that was argued this morning by Mr. Berke that we didn't put Sheridan on the stand. It was argued yesterday that we didn't put him on the stand and that we concealed these notes when, as a matter of fact, they are part of the court record here and all counsel know that and they have taken advantage of the fact that your Honor has excluded his testimony over our objection and has sealed these notes and we submit that that is unfair to the prosecution in this case and that I am entitled to answer that.

MR. NEAL: Your Honor, may I be heard just a moment?

THE COURT: Beg your pardon?

MR. NEAL: May I be heard?

THE COURT: Gentlemen, let's have places at your

bench, I mean at your seats. There is no purpose in taking this up at the bench.

(Thereupon, counsel returned to counsel table for the respective parties.)

End Tk 13A
Tk 14 fls.

MR. NEAL: Your Honor, this morning Mr. Berke said we could have put him only in rebuttal. Yesterday from Page 8341 Mr. Haggerty says, "Most important of the reason why Mr. Sheridan did not take this witness stand, he could not corroborate Partin's story."

That is the very reason we offered him, Your Honor. We thought it would be hearsay on direct but on rebuttal it would be corroboration. Now also he says, "Where are Sheridan's notes of his conversations with Partin?" Page 8341. "The spoken word can be altered, records are permanent and unalterable. Where are the records?"

The law on this is quite clear, Your Honor. The cases we think sustains our proposition clearly are Malone versus United States 94 F. 2d 281 and 288. Seventh Circuit. Certiorari denied 304 U. S. 562. 1938.

Ochoa versus United States, 167 F. 2d 341 and 344. Ninth Circuit. 1948.

United States versus Achilli 234 F. 2d 797 and 802.

And United States versus Stromberg, 268 F. 2d 256 at Page 271.

THE COURT: What was the last citation?

MR. NEAL: 268 F. 2d 256, and 271.

And Schmidt versus United States, 27 F. 2d 542 and 543.

Your Honor, Mr. Haggerty when we tried to put Mr. Sheridan on the stand we thought we had a right to do it, but Your Honor ruled otherwise, Mr. Haggerty said I think it is in the record there.

MR. HOOKER: Page 7680.

MR. NEAL: That his testimony would be superfluous and unnecessary and when we offered him to corroborate Partin. Your Honor, I thought, I thought Your Honor was at the point of pointing out to the jury and calling Mr. Haggerty down when he made this unproper remark and when Mr. Silets made this and this morning when Mr. Berke made it certainly the government is entitled to show what a fraud this is.

MR. HOOKER: That was over at Page 7670, if Your Honor please, and objected to by Mr. Berke at 7676, and by Mr. Haggerty at 7680. In other words, they have objected to the testimony of this man who is here and Your Honor sustained the objection. The notes that he took. They are here as a sealed exhibit. They said they had been deprived of the notes. The only reason they were deprived of the notes is they objected to the testimony of the witnesses and couldn't get the notes and Your Honor held it was improper before the jury. We submit that it is an unfair argument and I'm entitled to answer it.

MR. NEAL: Your Honor, may I point out just one more thing here this morning; Mr. Berke came over here

and this is what they have been doing, they have gone out of this record hundreds of times, Mr. Berke came over here and shook his finger in my face and said they accused you, Mr. Neal, of threatening the witnesses, but you didn't take the stand and answer it.

Attorneys trying a case should be very careful about taking the stand. I offered to put Mr. Clarence Evans on the stand to testify that I made no such statement and Your Honor ruled he wasn't proper rebuttal and yet that statement was made here in my face. Your Honor, they have been taking advantage of us throughout these, throughout these arguments, they have made here for two days. Now, is the government--, is the government not allowed to answer at least this one point where the notes are right here and they were turned over to Your Honor, and Mr. Haggerty says where are the notes and he says why didn't they call Sheridan and we tried to call Sheridan.

MR. BRANSTETTER: May it please the Court, the government--

MR. HOOKER: (Interposing) Excuse me, Mr. Branstetter.

MR. BRANSTETTER: (Interposing) The government handed up the notes and asked the Court to seal them.

MR. HOOKER: The only thing I expect to respond to is the very unfair argument then that we had Mr. Sheridan

and didn't put him on. Even called attention to the fact that he was in the courtroom yesterday. And then this morning we were upbraided by Mr. Berke about why didn't you put on Sheridan? We offered to put on Mr. Sheridan and an objection was made to it as I expect to point out in the record and Your Honor excluded it.

End 14
15 fol.

We also delivered to your Honor for in camera inspection the notes that they complain about and they are here as a sealed exhibit in this case and they argue that they were deprived of seeing those notes. They wouldn't have been deprived of seeing the notes if they hadn't objected to Sheridan's testimony.

MR. HAGGERTY: May it please the Court, the government had a full right to put Mr. Sheridan on their case in direct. Let me read to your Honor from page 104 of the Manual of Prosecuting Attorneys of the Department of Justice, "The most successful prosecutors are those who fully apprise their evidence and while guarding against a judgment of acquittal, their case in chief, save all appropriate evidence for use by way of rebuttal. What evidence is appropriate for rebuttal will be determined primarily by the nature of the defense anticipated. Such a procedure in effect gives the government the last word as to proof and obviously has a more favorable impact on the jury. The balancing of the evidence, of course, involves the calculated risk. In almost any case certain evidence will be lost if the defendant does not take the stand. There is always the hazard that the Court will rule that the evidence which the government intends to use by way of rebuttal should have been offered in the government's case in chief."

Now, what the government has done here is follow

the manual, at page 104 of the Prosecuting Attorneys of the Department of Justice and they had neglected and in their election they did not put Mr. Sheridan on in direct and then when they offered him in rebuttal your Honor correctly ruled in rebuttal that he could not take the stand and should not and I will read your Honor's ruling.

THE COURT: What page are you reading?

MR. HAGGERTY: 7732, and this is your Honor speaking, "With regard to the offer of proof for rebuttal of the Witness Sheridan, the Court is of the opinion that that objection should be sustained and that testimony not allowed to be introduced as rebuttal testimony." Now, there is your Honor's ruling.

Now, the mistake that the government has made in this instance is saving Mr. Sheridan for rebuttal under the dictates of this manual for prosecuting attorneys. They could have put Mr. Sheridan on in their direct case but they elected not so to do, so how can they come in in the face of the Court's ruling at this time and argue that we did not want him. We did not want him for rebuttal and the Court sustained our objection.

We could have raised no question if Mr. Sheridan had taken the stand in the case in chief.

MR. HOOKER: If your Honor please, we didn't think it would have been competent in chief because it would

have been hearsay, but after they made the attack on Mr. Partin we thought it was clearly competent in rebuttal as a previous confirmatory statement of Partin.

We offered him as a witness here at the pages in the record that I have previously referred to, and your Honor sustained their objections. They objected on the ground it was hearsay then, objected on the ground that it wasn't rebuttal, and they just objected on all general grounds.

Now, Mr. Haggerty, someone has it, Mr. Berke said, "Actually all they are trying to do --"

MR. HAGGERTY: (Interposing) What page?

MR. HOOKER: 7676. "All they are trying to do is to show that they are trying to bolster Mr. Partin's testimony by the testimony of Mr. Sheridan, which is clearly hearsay."

Mr. Haggerty says, "Therefore I say it's entirely superfluous and unnecessary to put Sheridan on. Not waiving any of our other grounds."

Now, they get here and for two days they denounce the government and upbraid us for not putting on Sheridan.

We think that fairness requires that we be permitted to tell this jury that Sheridan would have been on this stand except for the fact that your Honor sustained the objection.

MR. HAGGERTY: I say to your Honor if my argument was improper it was within the discretion of the government to

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stop me then and there, which is approved by the Supreme Court as the proper way to do it.

Now, if my argument was erroneous, if my argument was unfair, or if it was against any of the rules, I should have been stopped right there by an objection and your Honor should have ruled, but not now are they allowed to come in in this manner.

MR. NEAL: Your Honor, all the cases we've cited say we are. Your Honor, as I said, they objected. We offered to put Mr. Sheridan on the stand, they had a prepared memorandum, the Mallin case, your Honor will remember Mr. Silets argued that.

THE COURT: What are these cases authority for that you have cited to the Court?

MR. SILETS: I can answer that, your Honor.

MR. NEAL: To the proposition where the defendants go outside of the record and take advantage of the government in a manner that the government cannot rebut.

MR. SILETS: That is absolutely -- they stand for the proposition when the government prosecutor in his closing argument makes a prejudicial remark and the defendant doesn't object that that is not error. Now, that is the decision in Achilli, which is a case out of my circuit, I was in the prosecutor's office and that case came right out of our office. U. S. versus Stromberg, Schmidt versus United States,

they are all for that proposition.

Now the question is really the reverse. In this situation if the defense made an improper statement, and I don't suggest that it was, but if it was, it was their obligation to object.

Now, what they say is, "Well, there was an error, let's compound it. Let's compound the felony and say, 'All right, you, the judge, let you say that it was wrong, we didn't object, but now even though you are objecting to something that we want to say that is wrong it should go in.'"

Well, you can't do that, your Honor, and even these cases that the government cites don't hold that.

MR. HOOKER: I submit, if your Honor please, that neither can the government get the evidence of Mr. Sheridan excluded by their several objections and get in effect these notes excluded and then come here before the jury and in the concluding argument and take the government to task for not offering this Witness Sheridan, even commenting on his not being in the courtroom. He has gone out somewhere. And shut us off from making any reply.

If that is the case, if your Honor please, they can just strip the government by objecting, by objecting to witnesses here that we offer to put on and then insisting, "Why didn't you put them on?"

Just the reverse of their position when the

witnesses were offered. I don't see how there can be any possible doubt since they have opened the question, they have brought it up, they have advanced the proposition that we are entitled to answer it by what the facts are.

MR. HAGGERTY: I say, may it please the Court, that the government had a full opportunity first of all to offer Mr. Sheridan in chief. Second of all, we did not object to the records, we asked for Mr. Sheridan's records and the government, over strenuous objection, which was sustained by the Court, offered those and those records were sealed.

End 15
16 fls

And thus we were deprived of the use of them. Now, those are the facts as sustained by the record.

MR. NEAL: Your Honor, I didn't think Mr. Haggerty would do these tricks, but if the government--

MR. HAGGERTY: (Interposing) I resent that as a trick at all, if the government makes a mistake--

MR. NEAL: (Interposing) If the government cannot--

MR. HAGGERTY: (Interposing) Just a minute, I think I have a right to answer. There is no trick whatsoever to this. If I--I was in a proper argument and if you didn't think this was proper you know enough law, Mr. Neal, to object.

MR. NEAL: Your Honor, if the government can be caught like this and this can happen to it then this is a license for these sort of tricks forever. Now, Mr. Silets said these cases don't hold what we say they hold. I would like to read from the Malone case. The general rule is that counsel have a right to make any argument based upon evidence proven in the case or which may be reasonably inferred therefrom and to make reply, and to make reply, to that made by opposing counsel and in doing so statements may be made in reply which would otherwise be improper.

Now, your Honor, we could not, of course, talk about Sheridan, but when they deliberately objected to Mr.

Sheridan going on the stand and then for two days here Mr. Berke, Mr. Silets, and Mr. Haggerty say where is Mr. Sheridan and Mr. Schiffer would say he is slithering in and out of the back room, but he wouldn't take the stand, and when Mr. Berke can say this very morning they put Walker on in rebuttal, where is Walter Sheridan, they would have put him on, they have all made those very words and Mr. Haggerty said where is Mr. Sheridan, where is Mr. Sheridan's notes,you know he keeps records, that would be the permanent records, but where are the reports.

MR. SILETS: Your Honor, just one last comment if I might make this, in my argument I stated very specifically that Mr. Sheridan was not offered in the government's case. I tried to make that point emphatic. This morning when Mr. Berke referred to rebuttal, he was referring to the fact that Sheridan wasn't offered to rebut Shobe, to rebut Parks, but he was in fact offered for an exclusive purpose of corroboration. That is all the government offered him for, was corroboration, and that is why the Court said I will deny you the right to put him on the stand. Mr. Berke was talking about when Mr. Neal now gets up and talks about rebuttal, Mr. Berke was referring to the fact that he wasn't called to rebut Shobe and that is the fact, that is the truth.

MR. NEAL: Your Honor, there was nothing said this morning about Shobe. He said notes and statements, if

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he had any. That was the statement made. And then Mr. Berke said they could have put him on in rebuttal. He was here every day. Mr. Haggerty yesterday didn't limit himself to rebuttal either to either rebuttal or direct.

MR. HAGGERTY: May I call your Honor's attention to a case that seems to be on all fours?

THE COURT: Yes, sir.

MR. HAGGERTY: This is the case of Fogarty, (spelling) F-o-g-a-r-t-y, vs. United States, 263 Fed. 2d 201. Certiorario denied in the Supreme Court. The purpose of requiring the objection to be made while the argument is in progress is to give counsel making the argument a chance to withdraw or explain it, and a court a chance to exclude it from the jury's consideration. Now, that is my contention, if I made an erroneous argument or an objectionable argument, objection should have been made at that time for the reasons that applied in the Fogarty case. And I don't agree that I made improper argument.

THE COURT: All right, let's be in recess for a few minutes, so the Court can look at the authorities.

(Thereupon, at 11:15 o'clock A.M. court was in recess.)

End Tk 16
Tk 17 fls.

(Following the recess, the jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Gentlemen, at this time I am going to excuse the jury until 12:45. We will resume the argument of the case at 12:45. May we have the jury brought in just a moment for that purpose?

(Thereupon, the jury of 12 and 4 alternates were brought into open court and the following further proceedings were had, to-wit:)

THE COURT: That is all right. You may just remain standing. I am just going to give you a few brief instructions.

Ladies and gentlemen, I am going to excuse the jury at this time until 12:45. If you will, please have your lunch and be back at 12:45 and we will resume the argument in the case at that time.

Now, in the meantime, please do not discuss the case or allow anyone to talk with you aboutit.

Thank you very much.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Now, then, gentlemen, during the brief recess we have had so far is there any further authority

that any counsel has to cite, any further authority?

MR. BRANSTETTER: Be no further authority, may it please the Court.

MR. HOOKER: I'd like--

MR. BRANSTETTER: (Interposing) We believe the witness referred to was in and out of the room, the witness was under the exclusion rule and could not testify under any circumstances.

MR. HOOKER: A memorandum of what we have, if Your Honor please.

MR. NEAL: We kept him out, Your Honor, absolutely out.

MR. SCHIFFER: Judge, I can say to you and represent to you I have seen him in this courtroom day after day at different hours that he was here while I was addressing the jury yesterday and then he disappeared out of the courtroom. Now, I have seen him here.

MR. BROWN: Your Honor, I think it's apparent to all counsel Mr. Sheridan was here during all of the testimony in and out of the court.

MR. HOOKER: He wasn't here until after Your Honor passed on the question that we could not offer him in rebuttal.

MR. SILETS: Your Honor, I would also like to say to the best of my recollection that he was here while

the evidence was going in as well as the time of the argument.

MR. HAGGERTY: I have a similar recollection, Your Honor.

MR. NEAL: Your Honor, we are prepared to put Mr. Sheridan on the stand under oath to testify he was not here during any of the testimony.

MR. HOOKER: Let me make this observation, I don't know what that has got to do with the legal question we are discussing.

THE COURT: No, that has nothing to do with the question before the Court. Well, let's then recess until 12:45.

MR. NEAL: Your Honor, may I point--

MR. SILETS: (Interposing) May I inquire of the Court what the government handed up as additional authority?

THE COURT: It is the same matters, the same cases that were cited to the Court. I see one of the things cited here is the same case.

MR. BERKE: Did you give us a copy?

MR. NEAL: Your Honor, may I point out something, if defense counsel had said, "Why didn't they call Mr. John Jones?" If Mr. John Jones had been in the hospital the government could clearly get up and say he was in the hospital. That is even matters completely outside of the record. They have deliberately attempted to exclude a man, having a

memorandum read and then colored it, tried to impress the jury that we didn't call him even in rebuttal or on the case in chief, didn't call him at all and where are his notes when they have been handed to the Court. Thank you.

THE COURT: All right. Let's recess until 12:45.

(Thereupon, at 11:27 o'clock a. m. court was adjourned for the noon recess until 12:45 o'clock p. m.)

End 17
Tk 18 fol

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memorandum read and then colored it, tried to impress the jury that we didn't call him even in rebuttal or on the case in chief, didn't call him at all and where are his notes when they have been handed to the Court. Thank you.

THE COURT: All right. Let's recess until 12:45.

(Thereupon, at 11:27 o'clock a. m. court was adjourned for the noon recess until 12:45 o'clock p. m.)

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Tk 18 fol

ly slept on their rights and indeed, are complaining about what was said not only today but even yesterday. See also United States v. Phelan, 252 F. 891.

Under those circumstances, we submit that the Federal Rules requiring prompt objection to argument and the assignment of reasons therefor should not be here disregarded. See also Isaacs v. United States, 301 F.2d 706. However, if this Court should feel that the government prosecutors are entitled at this time to go outside the record to show that the defendants' counsel were in error, then clearly the defendants counsel should be given additional time to answer what were the circumstances that made them argue as they did before the jury and permit defendants likewise to go outside the record.

If an objection had been made by the government to the first defense counsel's argument, namely, Mr. Haggerty, in reference to the matter now complained of and such objection had been upheld by the Court, the other defense counsel would not have repeated the same arguments, and the failure of the government to object to the other counsel for defendants, who assumed that it was not objectionable, and had an objection been made opposing the argument, it would have been on an entirely different basis. If the Court were now to rule that in effect it would have denied the defendants the right for their counsel to argue the case properly before the jury. Furthermore, even the Court itself did not object to this

argument of defense counsel, although it had objected to other facets of defense counsel, which defense counsel respected.

Furthermore, it must be remembered that the government sought to have Sheridan testify only regarding contemporaneous reports made to him by a government informer in rebuttal and it must be remembered that when the defense asked for these notes the government objected to the defendants being permitted to see these notes, which the Court sustained the objection and sealed the notes. If the Court now permits an argument to be made on notes and conduct not in the record, then the defendants ask leave to open the entire record based on these notes and based on the examination and cross-examination of Mr. Sheridan and all leads that would flow therefrom from placing Mr. Sheridan on the stand. If defendants' counsel have argued to the jury that Mr. Hoffa was innocent because Judge Wilson was with him at the time he was in Nashville, wouldn't the government have objected and say where is the evidence? where is the proof? Similarly, failure to object on things which if the government felt was erroneous forbids them from making objections at this time.

Again we earnestly submit that the government can point to no case in the country where either a prosecutor or a counsel for the defendant over objections was permitted to go outside of the record to answer an argument which they did

not object to at the time it was made.

THE COURT: Well, gentlemen, it is the opinion of the Court that government counsel would not be permitted to comment upon any sealed notes; the production of those notes was not objected to by the defense. It is the opinion of the Court that the defendants having objected to the production of the testimony of the Witness Sheridan, and then having argued upon the fact that his testimony was not produced, that the government would be permitted to respond to the fact that he was not produced to the extent that that is reflected in the record. Namely, that he was offered by the government and that his testimony was objected to by the defense and that the Court sustained the defendants' objection in that respect.

At the time the Witness Sheridan was offered, the Court in an effort to be abundantly cautious and to resolve every possible doubt in favor of the defendants did exclude that testimony. However, in view of the fact that the defense have seen or felt it proper to argue upon the fact that he was not produced and in view of the fact that he was offered as a witness but that his testimony was excluded upon objection of the defendant I think the government should be permitted to comment to that extent only --, only to that extent, and not refer to any sealed exhibit which the defendants did not object to.

MR. BRANSTETTER: May it please the Court --

THE COURT: (Interposing) Just one moment, sir. The Court in arriving at this conclusion also has read a number of cases including the case at 167 Fed. 2nd 341 at page 344; and 94 Fed. 2nd 218 and 288; and 23 Fed. 2nd 797 at 802. All right.

MR. BRANSTETTER: May it please the Court, in behalf of Defendant Campbell I did not argue this matter and I will expect and appreciate it if the Court will when the argument is made to the jury by Mr. Hooker in line with what you say that the Court instruct the jury that I made no such argument. That I am objecting to any such argument being made at this time.

THE COURT: I will, of course, at the time of the general instruction to the jury also instruct the jury in the charge as to the significance of the Court's sustaining or overruling objections by counsel. And the proper instructions will be given to the jury in that respect.

MR. BRANSTETTER: Could I appropriately suggest --

THE COURT: (Interposing) Yes, sir.

MR. BRANSTETTER: Could I appropriately suggest also that certain insofar as the Defendant Campbell is concerned that the Court at this time in order to avoid a great deal of objection, confine such arguments to the truth of the matter, the truth of the matter being that he was not offered

on direct examination and rebuttal and the Court held that he was not an appropriate witness in rebuttal, otherwise I see no point of continually objecting to such argument and which will interrupt argument and I do not prefer to do that.

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MR. ALEXANDER: May it please the Court, I represent the Defendant Tweel, I made no reference to the fact that Mr.Sheridan did not testify in my argument to the jury and I think if Mr. Hooker does what he is going to do that the onus of it will be on Mr. Tweel where we didn't raise any objection to this problem.

MR. BROWN: If the Court please, on behalf of the Defendant King it is our position and we adopt the motion made by Mr. Branstetter, plus the fact that we would also like for the Court to instruct the jury as to the true facts, that the Court held had Mr. Sheridan been offered on proof in chief his testimony could have been put in but the government didn't see fit to do that and that is the true situation as it stands in the record.

MR. NEAL: Your Honor didn't so hold.

MR. SILETS: Your Honor, on behalf of the Defendant Dorfman I call to the Court's attention that my argument was exclusively related to the failure of the government to produce Mr. Sheridan in their case to sustain their burden of proof.

Now, if the Court please, I made no reference to the rebuttal. I referred specifically to the government's case and the government offered Mr. Sheridan in rebuttal only. At that time and for the precise exclusive purpose of corroborating Mr. Partin and it is my understanding on

that basis alone that the Court excluded his testimony.

Now, if Mr. Hooker is going to be permitted to argue to the jury on this issue I think that the Court should instruct Mr. Hooker to advise the jury of the fact that Mr. Sheridan was offered on rebuttal for the purpose of corroboration and the Court ruled that that was more proper in the government's case.

THE COURT: All right.

MR. SCHIFFER: Your Honor, on behalf of the Defendant Parks may I ask Your Honor to instruct Mr. Hooker--

MR. SILETS: (Interposing) Your Honor, I don't waive the Court's ruling. I have an exception to the Court's ruling. I don't want that to be misunderstood.

THE COURT: Yes.

MR. SCHIFFER: On behalf of the Defendant Parks--

THE COURT: (Interposing) Well, it certainly would appear that any rule of fairness, if there is any such thing as fairness in the argument of cases, any rule of fairness would certainly support the proposition besides the fact that the cases themselves do so indicate. All right.

MR. SILETS: I want the Court to not misunderstand, my objection still stands. I don't expect Mr. Hooker to argue any of this matter. This is my position on behalf of the Defendant Dorfman.

THE COURT: All right.

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MR. BERKE: I have my argument, if Your Honor please, and I did complain that he didn't put on that in chief, I say here on record Page 8488, I said, "Wouldn't Mr. Sheridan have gone on in chief? Oh, Mr. Hooker will say, "Well, they would have objected because Mr. Sheridan, what he would say would have been possibly hearsay."

But Mr. Sheridan could have said yes, he reported, he reported certain events to me on certain days, on what days and so forth, so we did.

THE COURT: All right.

MR. BERKE: So we did stay within the record, if Your Honor please.

THE COURT: Let's proceed.

MR. HAGGERTY: The Defendant Hoffa, may it please the Court, takes exception to Your Honor's ruling and suggests that under the circumstances and in accordance with the memoranda submitted to Your Honor the only fair way to handle this is to re-open proofs.

THE COURT: Well, overrule that request.

MR. HAGGERTY: Or--, And I further move on Your Honor's ruling for a mistrial.

THE COURT: Overrule that motion. The argument will be limited solely to response to the production of the Witness Sheridan and be limited solely to the matters reflected in the record that he was offered and that upon objection of

the defendants his testimony was not permitted by the Court.

MR. BRANSTETTER: May it please the Court, will it be restricted to the proof of the matter offered in rebuttal and the Court then ruled it was not an appropriate rebuttal evidence? I think that in fairness it should be done in that manner on behalf of the Defendant Campbell I move for a severance because I did not inject this matter and it was brought in and is prejudicial to him and I think that he should have a severance in this proceeding.

THE COURT: Overrule that.

MR. SCHIFFER: May I, on behalf of the defendant Parks, Your Honor, suggest and I so move accordingly that Mr. Hooker be instructed in raising this very issue with the jury to advise the jury that the government had its full opportunity in putting in their case in chief and elected to bring it out in rebuttal. It was only at that time that the Court ruled it was not proper rebuttal evidence but that the government neglected in their case in chief to offer the witness Walter Sheridan.

THE COURT: All right. I believe the Court's instructions in this regard are clear. I expect counsel to follow them.

MR. ALEXANDER: In order that I might not interrupt Mr. Hooker at the time he brings that up I would like to move for a mistrial and/or a severance on behalf of

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Defendant Tweel.

THE COURT: Allow that to be overruled.

MR. SCHIFFER: May we have that in favor of all defendants?

THE COURT: Be overruled as to all defendants.

MR. SILETS: Your Honor, if he does proceed into this may it be understood, if I don't stand and raise objection at that moment, that even if I should be seated quietly that my objection stays throughout his argument and relates specifically to this issue?

THE COURT: Well, gentlemen, conduct yourselves as you think it proper and appropriate.

MR. HAGGERTY: May it please the Court, I think that the only remedy under the law, as it is established, and the rules of court, are to make the objection if Mr. Hooker makes such an argument at the time. I don't believe any agreement beforehand would preserve the question.

THE COURT: All right. Let's have the jury return.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

End 19
Tk 20 fol.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: All right, Mr. Hooker.

MR. HOOKER: May it please your Honor, and you ladies and gentlemen of the jury, first, I want to thank you for your attention, your devotion to duty, your obvious desire to discharge the great responsibility that now confronts you. This is a sad day in my life, a sad day in Tennessee, a sad day in America that a jury of citizens of the Middle District of Tennessee should be called on for nearly seven weeks to listen to proof of a concerted effort and I think I can be permitted to say what I believe to be a successful effort to fix and corrupt a jury in the United States District Court for the Middle District of Tennessee.

Has it ever happened in this jurisdiction before? Has it ever happened to your knowledge before? That men would be so irresponsible of their duty and obligation to their government and to honesty and integrity that they would go forth as this proof shows for the deliberate purpose with the deliberate intention of corrupting a jury trying a case in a federal court.

In the nearly 40 years that I have been practicing law I have only had connection with two such cases and frankly I haven't heard of any others being tried. What a credit,

what a credit to the proud name of justice and what a credit to the courts in Tennessee.

But today has arrived, it is here in 1964. They would have you believe because they want to prejudice you that this prosecution was initiated and started by the Department of Justice and the Attorney General of the United States. That is contrary to the facts. This prosecution was started by the Honorable William E. Miller, Judge, Chief Judge of the United States District Court for the Middle District of Tennessee. That is who directed the grand jury investigation. That is really why this case is here because the judge in Nashville--

MR. BRANSTETTER: (Interposing) May it please the Court, there is nothing in the record of what counsel is now arguing. Not one line. And the Court cut me off when I argued something that I thought was in the record.

THE COURT: Stay within the record. Proceed to another matter.

MR. HOOKER: Well, let's see what happened, just in the very beginning of this I want to see what happened; the first thing that happened was that a man went to Judge Miller and Judge Miller told the Defendant Hoffa and now the Defendant King in chambers in Nashville, that a man had gone to his neighbor and offered him $10,000 to fix this jury in Nashville.

And then, what was the next thing later on in that trial that happened.

MR. BROWN: Mr. Hooker, I don't want to be rude and object, but, your Honor, there is nothing in this record that any neighbor ever went to Ewing King and told him, offered him any money whatsoever.

MR.BERKE: That count has been dismissed.

MR. HOOKER: I didn't say anything about Mr. Ewing King. I said the proof is that his Honor, Judge Miller, said at chambers there in Nashville that a man had been to his neighbor and offered him $10,000.

THE COURT: Well, if there was any statement about the Defendant King, disregard that.

MR. HOOKER: Now, what is the next thing that happened, what is the next thing that happened, to see how all this started? Gentlemen of the jury, and ladies, there was a report, a report to Judge Miller of Mr. King's trip to Woodbury and I wouldn't be permitted to remind you of this except for the fact that he brought it up himself through his own counsel and in the sanctity of the Judge's chambers or in this session there at Nashville, which the public was excluded from, when this was brought up by Judge Miller in the presence of the Defendant King, according to his own statement in this very courtroom he took the Fifth Amendment and declined to answer.

MR. SCHIFFER: Your Honor, at this point I move for a mistrial because Mr. Hooker is now injecting something on a constitutional basis which the Courts have ruled he dare not touch upon as to any defendant taking his constitutional rights and I accordingly move for a mistrial. It is highly prejudicial.

MR. BERKE: If your Honor please, under all the authorities and Mr. Hooker apparently doesn't know the rule on it--

THE COURT: (Interposing) Well--

MR. BROWN: (Interposing) Not only that, your Honor, but on behalf of the Defendant King he did not say he took the Fifth Amendment. I want that clear, your Honor. It is not in this record he said he took the Fifth Amendment.

MR. BERKE: It is improper for counsel--

THE COURT: (Interposing) Overrule the motion for a mistrial.

MR. BRANSTETTER: May all the defendants have the benefit of the mistrial motion?

THE COURT: Yes. Disregard the argument of counsel in that respect. Proceed, gentlemen. Stay within the record.

MR. HOOKER: Well, I will express it this way and I want to be in deference to his Honor's ruling, there is no proof in the record that he made any answer.

End Tk 20
Tk 21 fls.

I want to tell you, gentlemen of the jury, it's getting to be pretty serious business when a man that has been selected or at least picked among the 12 on a jury goes home and then has to come back to the court and report that an effort has been made to fix him as a juror in a case.

MR. HAGGERTY: Wait just a minute, may it please the Court. I think this is improper argument. There is nothing in this, the Court has sustained this and then, if Your Honor remembers that, that was testimony similar to that but not this testimony that was admitted, not as to the truth of it but simply for a limited purpose and I think it is improper argument.

THE COURT: Overrule the objection. Let's proceed.

MR. HOOKER: I had intended to refer to this later but since it has been mentioned now I want to read to you what happened and what has been read to you before from Page 5153 of the record, "The third day," Mr. Neal, "The third day, October the 24th, 1962. Pursuant to adjournment from October 23, 1962, a pre-trial conference was held in chambers at 9 O'Clock A. M. at which the following persons were present: Osborn, Haggerty, Bufalino, Hoffa, Maher, Neal, Shaffer, and Harwell."

"The Court speaking: I called you in here to report information which came to me just this morning as I came into the office." Judge Miller at Nashville. "Juror

No. 7, I believe Mr. Tippens, is that his name?

"Mr. Osborn says,'Mr. Tippens would be No. 12.'

"Mr. Haggerty says, 'C. F. Duncan is No. 7.'

"The Court speaking, 'then it would be No. 12 seated on the far end.'

"Attorney Osborn says, 'That would be Tippens.'

"Then the Court speaking, he said after he left the court yesterday he went to his office and a person whom he has known for a long time, a next door neighbor of his and apparently a person with whom he has had some business dealings, as well as some special contacts, approached him and told him that he would like for him to go out in the car, that he wanted to talk with him. He said he thought that was suspicious but he went on out in the car with him and this person said that he knew how he could pick up $10,000.00. Tippens said that he did not understand this but he thought he might be referring to the case. He said, 'if it has anything to do with this case I cannot discuss it with you.'

MR. BRANSTETTER: May it please the Court, insofar as the Defendant Campbell is concerned I object to the reading of it. The Courtadmitted it for a specific and very limited purpose. There has been no designation in the argument as being used for that purpose and certainly I would respectfully request the Court at this time to instruct

the jury that this has nothing whatsoever to do, top side or bottom, with the Defendant Campbell.

THE COURT: This testimony would be considered by the jury only in accordance with the instructions of the Court at the time it was offered.

MR. HOOKER: "The person went ahead and said, 'Well, it will be an easy way to pick up $10,000.00 and it will be paid in hundred dollar bills, that you could get it in hundred dollar bills.'"

That's what happened before Judge Miller on October the 24th, 1962, and that is when this whole thing started.

MR. HAGGERTY: May it please the Court, I dislike very much interrupting the argument of a brother attorney but it is the kind of argument that will have to be objected to. I ask the instruction from the Court at this time that Count 2 involved Tippens has been stricken from the record and that this testimony was read or this statement, colloquy between court and counsel, in fact, was only read for the purpose, a very limited purpose, and not as to substantive proof or not as to proof of the statement made therein.

THE COURT: Well, yes, ladies and gentlemen of the jury, as you recall the Court instructed you at the time it was received it would only be received or admitted as it might or might not tend to corroborate the witness

Partin in statements that he gave with regard to what Mr. Hoffa allegedly told him.

MR. HOOKER: Now, ladies and gentlemen of the Jury, I want to discuss with you in some detail, but I hope not to the extent of wearing you out, and I am going to try, even though I have got considerable time left, to try not to use all of that time but I want to discuss with you something about the facts of this case.

First I want to point out to you that there has been a lot of remarks here about Mr. Hoffa not having anything to do with this in Nashville, about there being no proof here except Partin, whose word is not to be accepted, that Mr. Hoffa had any connection with it.

I want to ask you if you think that Mr. King would have had anything to do with it if it hadn't been at Mr. Hoffa's direction. Do you think that Mr. King would have ever taken the trip to Woodbury if Mr. Hoffa hadn't known about it?

Do you think that he would ever made the swap of automobiles with Mr. Broda, who appears in one of these pictures here, without telling Mr. Hoffa about it?

Do you think he would have conducted himself--, I will express it that way--, before Judge Miller if Mr. Hoffa hadn't known about it?

Do you think he would have ever gone to Woodbury

and been followed by the FBI all the way home and followed to the very entrance to his house without telling Mr. Hoffa about it?

You have observed what has been going on in thiscase. I say in all good humor, and with friendliness toward my adversaries here that I think it's pretty apparent here that nobody that sits in this table would dare eat a meal unless they ate what Mr. Hoffa told them they should eat at that particular meal.

Now, let's see about this third count of the indictment. Count No. 3, in which Hoffa, Campbell and Parks are involved, and let's see whether or not there is anything fabricated in this evidence or anything from which you have to do any speculating at all.

I want to call your attention to the testimony of Walker, James T. Walker, who is a member of the police force at Nashville, who they attack here and claim was some sort of a government agent. They even bring in a man named Shobe.

Did you ever see anything like that in your life? And undertake to prove that Shobe had been to see Walker and that they had had a visit together and that they were both working for Mr. Sheridan.

End 21
2 fol.

And then when he brought Walker, Mr. Walker, back in here he said he had never seen Shobe in his life. I want to call your attention to what Walker said took place in relation to the third count of this indictment.

Now, did you meet him any more after that? Yes. I'm reading from pages 1556 and following. He came back a day or so later and asked me if I knew who the boss of the Fields family was. He is talking about Parks.

And was it Carl? And I told him I didn't think so and probably his sister. He asked what was her name and I told him Mattie. And he asked if I knew her. And I said yes and asked me to contact Mattie. And I called Mattie on her job and I asked her did she remember me and she did and I asked her could I come out and Parks and I went out to the place.

Now, that is about Mattie Leath. But I want to read you what happened with reference to this Fields boy first.

Now when the Defendant Parks reached your house there did you see him and talk with him? Yes, sir. Where did the conversation take place? Answer: In his car. You went out in front and got in the car? Yes, sir. Parks asked me if I knew anything in regard to the Hoffa case. I told him nothing other than I had read it in the papers and he also asked me if I knew the Fields that lived up the street

from me. I told him that I did. He asked me if Mr. Fields needed money. If he was in debt or what type of person he was. So I told him I did not know. I did not know that much about Mr. Fields. Mr. Fields was that Fields that was on the jury.

What Mr. Fields was he talking about, do you know? Answer, Mr. Gratin Fields. Is he the one that was on the jury? Yes, sir.

State whether or not there was a statement made about anyone else talking to Mr. Fields. Mr. Parks verified the fact that the big boys, he did not call the names, state whether or not there was any statement made about anyone else talking to Mr. Fields. Answer, he referred to the big boys. No names. He referred to the big boys wanted to talk to him.

Now, do you recall anything else that was said in the conversation in the car? Answer, he stated that they needed one other to hang the jury or for a mistrial.

Question, all right, now, when was the next time that you heard anything about from the Defendant Parks if you did? Answer, he called two or three days later and asked me if I had done anything towards our conversation and I told him no.

Was that a telephone conversation? It was.

Did you recognize the voice? I did. And whose voice was it? Thomas Parks. He came to my office a day or two later; and where was your office? 1703 Twenty-third

Avenue, North. I told him that I had heard that a Walter Jackson and a Carl Fields was in need of employment and he asked me if Carl Fields was the son of the Fields that was on the jury. I told him yes. He said well, that is my man. And would I contact him. So I called Mr. Fields' residence, his mother, Carl Fields' mother, and asked her if Carl was employed. She told me that he had a job but it wasn't the type job she would like for him to have and where he was working. Gave me the phone number and I called him. Telling him that there was someone there who would like to give him a job and asked him could he come out to my residence. He came out that afternoon. And then wasn't he present when you met him at your residence that night? Answer, he came after Carl Fields came to my residence.

Both of them left. I didn't see either one of them until later that afternoon, that evening, Carl came to my office in the front part of the offices and a few minutes later Mr. Parks came by and they went across the street from my place there and sat in the car and talked.

And you remember evidence about the type of car that Parks had.

Then did you have any further conversation with the Defendant Parks? That night he called me asking if I had heard from Carl Fields and I told him I had not. He asked me to call him and see what was he going to do. I called Carl

Fields and told him that I had talked with Parks and wanted to know what he was going to do. Parks told me that he hadn't done anything. That he was afraid to talk to his father and would not talk to him. I called Parks back telling him that Carl Fields had said what Carl Fields had said and he said that he had to do something about 11:00 o'clock. Carl told me that Mr. Parks wanted to know what his father was going to wear. And that is all. He wanted to know just what he was going to wear if he could tell him.

Of course, that was the purpose of going and reporting that the contact had been successful. That they were in contact with some member of the Fields family and that that person in the Fields family had reported what their father was going to wear on the jury the next day so that the people that had the money that were in behind this corrupt scheme would know that success had been met at least with that much success.

State just as near as you can what was said about that by Parks. He wanted to know --

MR. SCHIFFER: Objected at this point. Your Honor, Mr. Hooker is reading from a record he claims then interpolating his own remarks. Can he please indicate to the jury where one answer begins and another ends. It is confusing in the record.

MR. HOOKER: I think it is perfectly apparent.

THE COURT: Overrule the objection.

MR. HOOKER: You know, ladies and gentlemen of the jury, they have got a right to object but if it hadn't been for all those objections and motions for a mistrial I believe we would have been through.

MR. SCHIFFER: I move for a mistrial, I move for withdrawal of a juror and a mistrial. There again Mr. Hooker knows he is doing something wrong and I ask the Court to admonish him.

MR. SILETS: Joined in by all the defendants.

THE COURT: Overrule all the motions. Let's proceed. Stay within the record in the case, Mr. Hooker. Disregard the arguments of counsel.

MR. HOOKER: All right, your Honor. State as near as you can what was said by that boy Mr. Parks. He wanted to know what Fields was going to wear, the type of necktie and that is what he wanted Carl Fields to find out for him. Do you recall anything else that was said in this conversation? Answer, he said he had given Carl Fields some money. That he thinks he would come through.

End 22
22a fls

Now, ladies and gentlemen of the jury, that is testimony of this man James T. Walker. You saw him here on the witness stand three times. What are you going to do with that testimony? Is there anything about it that causes you not to believe it?

This man is a substantial citizen there in Nashville. Member of the police force. Are you in any way deceived or misled by some idea that this man by the name of Shobe came here and had any contact, any contact with James Walker?

Now, then, what does the young man Carl Fields say? He was the son of the juror. He impressed me as being a good boy. There is no, there is no real attack made on Carl Fields here. Carl Fields took the money. Shortly after a fellow arrived and Walker introduced him to me as Thomas Parks. This is Carl Fields now. All right, and what did the man--, sitting here now with his hand on his chin, what if anything did he say to you? Well, he asked me, he said his car was parked across the street and come over and sit in the car. What kind of car was it? It was a Buick. I think it was a two-toned green. He asked me was my father on the Hoffa jury and I told him, I told him he was. Told him yes. Question, Well he asked me how was it with me and my father and I told him. What else did he say? He asked me, he said, did I think I could talk to my daddy as far as voting for acquittal. And I said no I couldn't talk to my

father about anything like that. I said he wouldn't go for anything like that. And he said, well, if you could talk to your father about it that it would be $5,000.00 in it apiece for you. And I said well, no, I still couldn't talk to my father about nothing like that. I said he wouldn't go for it. Now was that the extent of the conversation there that night? No, sir, he asked me if I could just tell him what kind of a suit my father would be wearing or what kind of a coat he would be wearing. That it would help him a lot. And I told him I don't know what kind of clothes he would be wearing because I just, I just didn't live with my father. And then he took five twenty-dollar bills and laid it on the seat of the car and he said, if you can just tell me what kind of a suit he would be wearing or what kind of a coat he would be wearing, he said if you can give me that information before nine o'clock, he said it would be, I could give you another hundred dollars. So I told him I didn't know and I said I don't want to take your money because I doubt if I can talk to my father about anything about that. And he gave you five twenty-dollar bills? Yes, sir.

Question: Did you see his wallet at the time he gave you the five twenty-dollar bills?

Answer: Yes, sir.

How did it appear?

Well, it appeared fat.

This man that claimed to have only made $1,500.00 a year and they said further that he told me he had to make a call to Louisville before nine o'clock if I could let him know.

Now, gentlemen of the jury, who was he going to call in Louisville? Why, ladies and gentlemen of the jury, between October 21 and November 14th,and there is a record of it here in this record, and you have seen the toll tickets, they have all been introduced here, bear in mind now October 21st to November 14th, a period of three weeks, eighteen telephone calls between Parks and Campbell. Parks in Nashville and Campbell in Louisville or Detroit. What business man would have that many calls with one individual in that length of time? What family would have that many calls among themselves? 18 telephone calls in a period of three weeks and many times two, three, sometimes four in one day.

What do you say about that proof?

MR. SCHIFFER: I object at this point, Your Honor. Mr. Hooker is misreading the record. There was nothing in this record which indicates upon any of these calls had the Defendant Campbell and the Defendant Parks spoken with each other. Nothing in the record.

THE COURT: Overrule the objection.

End 22A
23 fol.

MR. HOOKER: Now, what else, ladies and gentlemen, in addition to that? Is Parks' talking 18 times in three weeks to Campbell, Parks going to Louisville twice, according to the testimony of Campbell once or twice, calling back and forth, sometimes two or three times a day and then, according to the Witness Partin, and how could the Witness Partin have known anything about Campbell and Parks? Think about this for a moment. How could the Witness Partin have known anything at all about Campbell and Parks if he hadn't have heard it in that suite in the Andrew Jackson?

MR. SCHIFFER: Objected to, your Honor. This is not in the evidence. Now he has been deliberately misquoting this record and I object to this. He has to stay within this record. There is no such testimony, your Honor. He is deliberately distorting here. This is with deliberation. He is doing this. We had to stay within the record and I ask the Court to tell Mr. Hooker he has got to, too. He can't speculate here. We dealt with facts, not what he would like to believe.

THE COURT: Overrule the objection.

MR. HOOKER: Partin told you that Mr. Hoffa said, "Well, don't worry about it too much because I have got the colored male juror in my hip pocket. One of my business agents, Campbell, came into Nashville prior to the trial and took care of him."

MR. SCHIFFER: Your Honor, again he is deliberately misstating the record. There is no such statement between the 21st of October and November 14th that such a statement was made.

MR. HOOKER: Page 3284 of the record.

THE COURT: Overruled.

MR. SCHIFFER: Let him read it. Let him prove it.

MR. HOOKER: Give me that jury list, the one of October the 2nd, if you can find it right quick. Partin just make that up? How would he have known to make it up? How would he have known to bring Campbell in if it hadn't been said up there at that suite at the Andrew Jackson Hotel?

And so here you have Parks giving Fields a hundred dollars to tell him what his daddy was going to wear the next day to court. You have Parks telling Fields that he had to know by nine o'clock so he could call Louisville. You have Parks and Fields communicating 18 times between October the 21st and November the 14th by telephone.

MR. SCHIFFER: There is no such evidence in the case.

THE COURT: You said Parks and Fields.

MR. HOOKER: Parks and Campbell.

MR. SCHIFFER: No such evidence in this record that Parks ever spoke to him.

THE COURT: Overruled.

MR. SCHIFFER: Three thousand two hundred eighty-three, four and five. Your Honor, he is deliberately misquoting this record.

THE COURT: Overruled.

MR. HOOKER: Well, let's see, let's see. On October the 21st at 10:34 P.M., that's at night, there was a call from the Mattie Mix residence at Nashville where Parks took his meals to Brown's Guest House at Louisville, where Campbell was shown to be staying.

At 12:53 A.M., no, that is another party. At 6:12 A.M. on October 22nd a call from Brown's Guest House, cash in the box, to the Mattie Mix residence.

On October the 23rd at 7:30 P.M., a call from a booth shown to be located a block and a half from Brown's Guest House to the Mattie Mix residence where Parks took his meals.

At 9:05 P.M., a call from the same phone booth just a little more than an hour, about an hour and a half later, to the Mattie Mix residence in Nashville.

At 7:48 A.M. on the 24th a call from the same phone booth, a block and a half from the Brown's Guest House to the Mattie Mix residence in Nashville.

At 8:07 on the same day, October the 24th, a call from the same phone booth to the Mattie Mix residence in Nashville.

At 7:54 on October the 25th, 7:54 P.M., a call from the same phone booth to the Mattie Mix residence in Nashville.

On October the 29th at 7:10 P.M. a call from the same phone booth--no, from a phone booth located across the street from Joe's Palm Room, from Louisville to the Mattie Mix residence in Nashville.

At 8:57 on November the 1st, a call from Larry Campbell, the number is given and it's a party to party call, party to station call, Mattie Mix residence at Nashville.

On November the 2nd, a call from Larry Campbell at 11:00 A.M. to the Mattie Mix residence.

On November the 6th, a call at 10:04 from the booth across from Joe's Palm Room to the Mattie Mix residence.

At 11:05 a call from the same phone booth to the Mattie Mix residence.

On November the 12th a call at 11:03 from the phone booth located across the street from Joe's Palm Room to the Mattie Mix residence.

Another one on November the 13th from the phone booth near the Palm Room to the Mattie Mix residence.

Then three phone calls on November the 14th, one at 9:09, one at 11:56 and one at 2:01.

You think they were calling about this jury or not?

Would they have possibly been calling all of those times about a sister that was unfortunately sick?

MR. SCHIFFER: Object to that as not the evidence, your Honor, it's an unfair comment and with reference to these very telephone calls in not a single instance does the record reflect that Campbell spoke with Parks.

THE COURT: Overrule the objection.

MR. HOOKER: Could it possibly be all those calls were about any illness in the family or any burial in the family? Is there any doubt but what those calls were along the lines that I have got to know by nine o'clock so I can call up Louisville? Can there be any possible reasonable doubt that that is a fact?

Well, they say, ladies and gentlemen of the jury, that it would have been impossible for them to known anything about Gratin Fields in time to have done anything of that sort. Why, ladies and gentlemen of the jury, he was on the regular jury panel in Judge Miller's court from which this jury was ultimately selected.

On October the 2nd, 1962, this list was available to lawyers and all others interested showing on Jury No. 3 Gratin Fields at 1806 Meharry Boulevard, Nashville, Davidson County, as being on that regular jury panel. So, gentlemen of the jury, ladies and gentlemen of the jury, that hurriedly is the proof, the principal proof, under the third count of

the indictment, and I want to say to you now, with all of the integrity that I hope I possess, with all of the years that I have been at the bar in Tennessee, that I would under no circumstances ask this or any other jury to convict a group of defendants of a criminal offense unless I honestly believed beyond a reasonable doubt that they were guilty.

MR. SCHIFFER: I object to that statement.

MR. SILETS: Your Honor--

MR. SCHIFFER: (Interposing) Your Honor, it's highly prejudicial, it's illegal, Mr. Hooker knows that he dare not draw on the weight of his official office in this case behind that kind of a statement. I move for a mistrial.

THE COURT: Overrule the motion. Disregard the argument of counsel in that respect. Let's proceed and stay in the record.

MR. BRANSTETTER: The Defendant Campbell joins in that motion.

MR. SILETS: The Defendant Dorfman also.

MR. HAGGERTY: The Defendant Hoffa.

MR. ALEXANDER: The Defendant Tweel.

THE COURT: As to all defendants.

MR. HOOKER: The proof I have outlined here does show that these defendants--the defendant, Mr. Hoffa, who said he had the colored male juror in his pocket, Mr. Parks, who made the approach and paid the hundred dollars to the son

of the juror, Mr. Campbell, who was in Louisville calling back and forth, back and forth here.

End Tk 23
Tk 24 fls.

That the proof establishes that all three of these parties are guilty beyond a reasonable doubt and that your verdict should be guilty on the third count of the indictment with respect to each of these three defendants.

Now, ladies and gentlemen of the jury, let us take the fourth count of the indictment in which Mr. Hoffa, Mr. Dorfman, and Mr. Tweel are charged. You know this thing begins with a strange circumstance, kind of an unusual thing for a man to take, not use the commercial airlines, but to take a private plane in the wee, small hours of the night in Chicago, to fly down to Nashville to talk to a man from Huntington, West Virginia about a business deal. And a little unusual that the next morning they are here in Nashville for this meeting which was obviously as important as they say to both of them, something about some hotel deal and what that they should both do the first thing that morning is to fly off to the United States District Court to hear the commencement of the trial against Mr. Hoffa.

And you have been through many weeks here of this. That was October 22nd. I wouldn't have thought that the commencement of the selection of the jury and whatever motions that they had there about it would have been very interesting to a man from Huntington, West Virginia that didn't even know him. But that is where they went and that is where they apparently spent most of the few hours that they were in,

hours or at least that Mr. Dorfman was in Nashville. These two men that were meeting about an important business deal. And so that day Mr. Partin met Mr. Tweel and is there any doubt about the fact that he did meet him?

They would have you believe that this man is not entitled to be believed under any circumstances. All the other conversations over the telephone the many conversations over the telephone, is there any doubt on earth but what Partin met Tweel that morning?

Partin said that Mr. Dorfman called him and told him it would be a personal favor. Partin said that Mr. Tweel said that Dorfman called him and told him it would be a personal favor to him if he would come down to Nashville and help him set up a method to get to the jury. Mr. Tweel told me, Partin, that he needed a jury list in order that he may contact Mr. Hall and read the jury off to him so he could contact the people.

Partin said as soon as the man made the contacts, as soon as Mr. Hall made the contact, when he was coming back into Nashville, Tweel was coming back to Nashville, he would let me know. Tweel told me to pass word to them that he was going there to get out of it. It was too hot for him. That this Dallas Hall, he said he didn't want any part of it. It was just too dangerous to touch and the other part I can't say.

And so Partin met Tweel that day at the Andrew Jackson. And then later Partin asked Mr. Hoffa about Tweel and on Page 2963 of the evidence he testified that Mr. Hoffa said, oh, yes, he is up here to help me.

Where could all this come from, ladies and gentlemen? What does it arise from, unless it arises from that in this capable truth? Now, then, Mr. Tweel goes down to the Subway Bar or whatever they call it, and has a conversation with Dallas Hall. He has some other conversations over the telephone with Dallas Hall. He said more to Dallas Hall than my adversaries mentioned. He said to Dallas Hall, it will mean something to you and the others and how, how did Tweel get the jury list? Well, they went to O'Brien's Beefery to dinner. Mr. Partin has testified to you that at the telephone there Mr. Dorfman tried to get Mr. Tweel. They couldn't make the connection in somehow; they went up to the Union Station and Mr. O'Brien and Mr. Zimmerle who worked there at the station have testified to you and Mr. Hoffa has testified to you that they were there and having some discussion about the height of the ceiling. Is there any doubt about them being there? The many witnesses that have testified that they were in the Union Station and Partin says that on that open telephone there in the lobby of the Union Station that Mr. Dorfman called Tweel. And the connection then wasn't satisfactory. And so they walked on up the street

east on up Broad Street there to the telephone station that is immediately across from the U. S. Courthouse. The U. S. Courthouse was closed that night. That time of day.

MR. SILETS: Your Honor, there is no evidence about it being open or closed. As a matter of fact, Mr. Hooker knows full well the trial was going on, that those people were working day and night and it is improper argument.

THE COURT: All right. Proceed.

MR. HOOKER: Well, I guess they would have you believe it was open with an FBI agent hanging out of every window, but I think the fair inference is that it was closed for business during that time of day.

But whether it was or not, they went to that station and called Mr. Tweel's office and what happened? Partin says that Mr. Dorfman read off a jury list over the telephone with names and addresses. Why did anybody in Huntington, West Virginia want a jury list of the jury the United States District Court at Nashville, Tennessee?

Can there be but one answer? Could there be any reason except that there was something corrupt about it? The trial was in progress. What would a man in Huntington, West Virginia that claims not to even have known the Defendant Hoffa want with a jury list in the United States District Court at Nashville?

Suppose you heard that somebody from Cincinnati

or Chicago or any other place in the United States had called in here during the progress of this long trial to get a list of your names and addresses? Why did they do that?

And then the telephone was answered up there and Mr. Tweel had Miss Fulton to get on the line, Page 2356, I don't seem to have the right one. Wait a minute, I believe it is there in front, Jim, see if it is not. I didn't realize I had taken it off the stack. Here we are.

Now this second time, this is Miss Fulton testifying, when the call came back in the second time did it come through you? Yes, sir. Did you hear the person on the line identify himself? Yes, sir. Who did he say he was? Allen Dorfman. Allen Dorfman? Now, during that conversation, did you hear any part of the conversation? Not between he and Mr. Tweel. Well, were you asked at any time to pick up your receiver? Yes, sir. Who asked you to do that? Mr. Tweel. And did you do that? Yes, sir. And after you picked up the receiver what did you hear the man on the other end of the line that identified himself as Allen Dorfman, what did you hear him say? He gave me a list of names and addresses. Give you a list of names and addresses? Yes, sir. In what part of the country were the addresses located? Tennessee. Tennessee. Tennessee? Tennessee addresses? Yes, sir. Did you recognize the names of any of the towns? No, sir. Most of them were rural routes

and small towns it seemed to me. Rural routes around where? Nashville. Nashville? Did you recognize any of the names other than Nashville? Yes, sir. Now did you recognize or were you given in addition to the list of names and addresses were you given the occupations? There was an objection. All right, I will ask it this way, were you given any other information about the persons on the list? Yes, sir. What was that? Some of them had the occupations. The occupations? Now, do you remember the occupations that was given for any of the persons named? Do you remember that? Yes, sir.

End 24
25 fol.

"Now, then after you took these names down could you give us any idea about how many names and addresses there were?

"There were several of them, 18 or 20 some.

"How many now?

"Several, she said.

"What did she say after that maybe 18 or 20?

"I don't know.

"Maybe 18 or 20. Did you have any further conversation with either of the parties after that, that is, did you participate in the telephone conversation any more after that?

"No, sir.

"You hung up?

"Yes.

"After you hung up what, if anything, did Mr. Tweel say to you, what did he tell you to do, if anything?

"He asked me to type the names and addresses and to give them to him -- to type the names and addresses.

"And did you do that?

"Yes.

"And just tell the jury how you started out to type them.

"Well, I started to put them on a letterhead from the Mayflower," listen to this:

"Do you mean stationery paper that had the name of the Mayflower Distributing Company on it?

"Yes, sir.

"And you say you started to do that?

"Yes, sir.

"What, if anything, did he say?

"He asked me to put them on a plain piece of plain stationery.

"How many copies did he make?

Later on she said, "I made three copies.

"Were they on plain paper?

"They were."

Then later on you will recall this without my taking the time to look it up, later on she was told to say nothing about having taken down that jury list.

What was the purpose of that, ladies and gentlemen of the jury?

Now, on the question of whether or not the proof is sufficient to sustain a conviction on this count beyond a reasonable doubt. Why would a man go to a pay station at night and call and read a jury list to somebody in Huntington, West Virginia? A trial that has been in progress in Nashville, not to a lawyer, not to a litigant, not to anybody that even knew the defendant. The only defendant involved in this case, and read a jury list with the names and addresses unless their

intention was to do something unlawful about it.

But they would say to you, "Oh, no, this can't be believed because this girl here, this Miss Fulton, that they came here, she had had to admit she married when she was 16 years old, there's been some charge of her about not being a fit mother for her children." All sorts of charges against her.

I say to you, ladies and gentlemen, what the original Henry Grady said in the Atlanta Constitution, that anyone who would attack the virtue of a woman in a court of justice, whether she be a virgin or harlot, ought to be in hell.

MR. SCHIFFER: Your Honor, I want to object to the misquotation. Mr. Grady spoke of a lady, not the kind of woman here depicted by Mr. Hooker.

MR. HOOKER: That is just the reply that I would expect Mr. Schiffer to make.

THE COURT: Let's proceed, gentlemen.

MR. SCHIFFER: Always for a lady.

MR. HOOKER: I expect it, sir, coming from the man --

THE COURT: (Interposing) Proceed.

MR. HOOKER: Yes. From the man that makes the objections, the same man that hurls 30 pieces of silver on the table here, the purse that was paid for the life of our

Lord, and he would have the audacity in a court of justice to throw money down in that fashion and in the manner in which he did.

Oh, it takes a strong man. It takes a brave, courageous man to have a lady get on the witness stand and then to deride and defame and abuse her, and I don't believe that juries in Tennessee -- I have been standing before them for long, many years. I don't believe that they appreciate that sort of thing. Did she lie?

Do you believe because of the misfortunes that she has had that she came here and told you a corrupt dishonest lie? Yes, she tried to protect her employer. Yes, she had declined to tell the truth before the grand jury, but you ladies and gentlemen are enough experienced to know that if crime wasn't tracked down in that manner that you would never get to the criminals, never.

Did Mr. Dorfman have any motive to help Mr. Hoffa? Mr. Hoffa says he received from 35 million to 50 million in premiums a year on insurance, on the insurance business that he has got and he gets a commission out of that.

I would be willing to risk a wager that there is not an insurance agent in Tennessee that handles that much in premiums in a year's time.

Did Tweel have a motive? This man that is flying down here from Huntington, West Virginia. This man that is

telling his secretary, "Don't put this list on my stationery where it can be fastened on me." Did he have a motive?

Oh, I tell you what his motive was. He is dealing in real estate, in hotels. He wanted to get some of that pension fund money that Mr. Hoffa dominates and controls.

MR. SILETS: Your Honor, there is nothing in the record about that.

MR. ALEXANDER: Nothing.

MR. SILETS: Nothing that an inference can be drawn from. I object and ask the jury to disregard it.

MR. HOOKER: Went into great detail.

MR. BERKE: No showing Mr. Hoffa controls it. It was explained, if your Honor please, that there is a certain group of people, group of management and labor with a federal judge as mediator. Now, that's an untrue statement.

MR. HOOKER: All right.

THE COURT: Overruled.

MR. HOOKER: Other trustees. I bet Mr. Hoffa controls that like he has been controlling and dominating this trial.

MR. HAGGERTY: Objection.

MR. SILETS: It's an improper comment.

MR. BERKE: If your Honor please, why can't Mr. Hooker stay in the record? If the evidence is there we have no objection. We don't want to interrupt Mr. Hooker, but he

is getting out of the record, he is not quoting the evidence correctly and we want to apologize for having to interrupt Mr. Hooker that way but, please, if he would stay in the record we will let him make his argument.

MR. SILETS: Your Honor, may we, on behalf of all defendants, move for a mistrial on the basis of those improper comments?

THE COURT: Overrule the motion.

MR. HOOKER: Now, ladies and gentlemen of the jury, I say to you that the proof establishes on the fourth count of the indictment the guilt of the Defendant Hoffa, the Defendant Dorfman, and the Defendant Tweel beyond a reasonable doubt.

Now, let's see about the fifth count. In all of the time that I have been watching around the courts, I have never seen anything quite like this. The Defendant King advised me that I made a mistake and asked about a hound dog, and he said, "Oh, no, it's a beagle hound." He says, "You don't hunt coons with -- you don't hunt rabbits with hound dogs."

And I have been thinking about that and I never did know before that you hunted jurors with beagle hounds. That is about what went on in this.

Mr. King made two trips to Woodbury. He said that he didn't see Mutt Pitts the first time. Pitts said he

did and if I ever saw a reluctant witness in my life it was Oscar "Mutt" Pitts. He didn't want to tell this. You saw and observed him. He didn't want to tell it at all.

Then he got the call that "my beagle hound died." That was, that was his signal for the meeting.

End 25
26 fls

Then they went up there and Pitts went over with Paschal, I am going to call it to your attention in some more detail because it was very important and made arrangements to meet at the spring and then went back to his house and got Mr. King. Mr. Officer, would you mind putting that picture up somewhere? That is fine.

I won't keep it there long, just long enough to call attention again to this situation.

Oh, ladies and gentlemen of the jury, they say this is a country way of doing it. Well, I live on a farm myself and was born and raised in the country. I didn't, my younger days I didn't know of many meetings that my father and anybody else had at 12:00 or 1:00 or 2:00 o'clock in the morning on a dark, rainy night. The kind of people that lived in the country where I lived didn't operate that way. And why did they go out there? Why do they claimed to have gone out there that night? Why does Mr. King claim that they met down here on this country road? Oh, talk to the man that he said he didn't know about a promotion and maybe something about hunting. Is there anybody on the jury that is gullible enough to believe any such story as that?

Mr. King was at the trial every day, practically every day. Mr. King was at the suite at the hotel practically every day. Mr. King as shown by one of the photographs here, I won't ask for it because I don't know exactly where it is,

was the man that met Mr. Hoffa at the airplane when he first got into Nashville. Don't bother with it.

And he said he went up there to talk about a promotion but nothing on earth about the man's wife being on the jury. Nothing corrupt and dishonest about this. No jury fix involved in this. This meeting on a dark, rainy night on a country road. Let me ask you another question and this is real important, when he went, twice, when he was followed back by the FBI, when he was with Mr. Hoffa every day, when he knew he had been followed back because the car was there at the driveway, do you believe he told Mr. Hoffa about it?

End 26
26a fls

Is there any lady and gentleman on this jury that would believe that Mr. King, his confidant, his friend, the man that Mr. Hoffa came to Nashville to speak for in his union election, went to Woodbury twice trailed by the FBI right back to his home and didn't open his mouth to Mr. Hoffa about it? And did it just happen, did it just happen that the Highway Patrolman they went to see that he didn't know, to so graciously help him get a promotion, was the husband of a lady on the jury?

Suppose that you would find out that some of these people that have been here in the audience from day to day and sitting over here on the defendants' side and friendly with the defendants had been to your house to see your husband or your wife about a promotion with you on this jury? Would you resent it? Would you know that somebody was making an effort to corrupt you and to ruin your good name?

That is what he did.

Well, poor old Mutt. I kind of felt sorry for Mutt. Seemed like a pretty good fellow to me and I don't believe--, I don't believe Mutt was very used to being in the jury fix. I got the impression that he wasn't very experienced at it. Well, when you got there, there is Mr. Pitts, this is Mr. Pitts, when you got there to that place was Paschal already there when you got there? Yes, sir. And where did you stop the car that you were driving with

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reference to his patrol car? Like I said back there I stopped it right there in front of that patrol car, right in front of it? Yes. He and Ewing got out and he went up there to the side of the car and I introduced Ewing to Paschal. Directing your attention to whether or not introducing King, Mr. King, you referred in any way to your relation to him?

Well, the only thing I told him, was that this was Ewing King, that he was president of that local down there. I mean three to seven. Of the Teamsters? Yes, sir. Well, Ewing got in on the side of the highway patrol, James Morris? Yes, sir. And pulled the seat over and Ewing got in the back and I went around the car and I got in the front seat. Well, tell these ladies and gentlemen about what time it was? Well, it was somewhere I'd say around twelve-thirty. Twenty-thirty at night? Raining to boot. It was raining.

Well, they got in there and they talked about the highway patrol. Talked about getting tickets, running up and down the road doing this and that and what they would do with a patrolman was if they knowed and called no telling how many I didn't know how many of them. They talked backwards and forwards, talked about the promotion, what about the promotion? Well, he told him he could get him a promotion.

Well, I don't care for telling, let me tell you.

He said that he would get the promotion through Gregg O'Rear down at Franklin. That is where he came from. And Frank Clement and Ewing said that that is where he had his pull was through Frank Clement and Anna Belle and Greg O'Rear and Hilton Butler. Named them all. That he didn't think it would be any trouble for him to get him a promotion.

Well, was Paschal to do anything? Well, not at that particular point not on his promotion, but we were sitting there and his wife's name came up.

And he said that he wanted to know if he could talk to his wife. Who said that? Ewing. All right, and Ewing, I mean, Paschal said that they wasn't getting along too good, or something another like that and words like that and he wasn't getting along with her or something. He wasn't getting along with her anyway and the meaning of what was Paschal said back to Ewing King was they talked about the woman being a good woman. Paschal said she went to church. Said she was a lot better woman than he was a man. But now, that was about all that was said about him on the woman. About her being a good woman. They weren't getting along and he wasn't getting along too good with her.

And then we went back home. Did you ever have any further conversation with King? Yes, sir. What did he say? He said he didn't think he could do much good with Paschal. We sat down at the table, we talked at the table

and had some coffee and my wife had a piece of cake and we sat there and ate the cake and he said reckon that Paschal, reckon that he could talk to his wife and I told him I said no, I don't think so. What time did King leave your house that night?

Well, in the neighborhood I'm not sure for certain, about ten minutes of two.

Now, then, gentlemen of the jury, and ladies, that was Pitts' reluctant statement about this. And I want to call your attention very briefly to Mr. Paschal's statement. Page 2810.

Fwd 26A 27 fol.

Somebody must have moved my books. Here it is.

"Now, you have stated that Pitts told you his boss wanted to see him. Is that correct?

"That is correct.

"That is just the answer you gave. Did he further identify his boss to you?

"He said Mr. King." This is Pitts, "Mr. Ewing King, he said Mr. King.

"Did he give you any further identification?

"Not at this time.

"All right, sir. What did you say?

"I asked him what he wanted and he said he wanted to see me about a promotion, helping me.

"See you about a promotion, helping you get a promotion. Did he say anything else?

"Well, I asked him and he said he was up to his house. He said that Mr. King was up to his house and I said, 'Well, where do you want to see me at?'

"He said,'Well, I suppose up the road.' And I said, 'Well, what about the river springs?'

"And then after they got up to the spring he introduces himself and they got in the car. He told me, he said he heard that I was wanting a promotion and said he was in position to help me get one.

"He did?

"Yes, sir.

"All right.

"He said he knew the Governor then and the incoming Governor, he knew the present Governor and the incoming Governor.

"What was said then?

"Well, he said, 'Your wife is on the jury.'

"Who said that?

"Mr. King.

"Was he the first one to bring that up?

"Yes, sir.

"Go ahead.

"Well, he said, 'Your wife is on the jury.'

"And I said, 'Yes, sir.' And he asked me if I could talk to her.

"He asked me if you could talk to your wife?

"Yes, sir. He asked me if I could talk to her.

"Then could you talk to your wife?

"Yes, sir. I told him no, that I couldn't talk to her that we wasn't getting along too well. Mr. King said, 'You talk to her.' And said, 'I will get you the promotion.'

Then is there any doubt in any of your ladies and gentlemen of the jury's mind about the reason for this midnight meeting on a rainy night at a spring out on a country road between Mr. King and a highway patrolman whose wife was on the jury? Is there any doubt about that?

So I say to you ladies and gentlemen that the proof in this case shows that under the fifth count of the indictment that the Defendant Hoffa and the Defendant King are guilty beyond a reasonable doubt.

Now, there has been a good deal said here about Mr. Partin and I want to discuss that with you briefly. It was said here in the course of argument that Partin could have waived Mrs. Partin's privilege if she wanted to testify.

I tell you that that is not in accord with the facts. Mr. Partin was not asked to waive the privilege. Mrs. Partin had a privilege of her own and I think it's a credit to her and a credit to him because the law for longer than man recollect has protected the communications between husband and wife. You know they made a terrible assault on Partin. They went way beyond what I thought was the rule in asking him a great many things about collateral matters, about a bad conduct discharge from the Marines, about things for which he was indicted, but they never were able to show that he had ever been convicted of but one offense in his life and that was some robbery charge when he was a boy 19 years of age. That is the only conviction that they brought against him. They brought the charge which was, to my way of thinking, one of the most serious charges that you can make against a man. I don't know of anything that is more horrible in life than to be addicted to dope, Morphine or

Heroin or some derivative of opium. I believe if I had the choice of being addicted to dope, really addicted to dope or having a cancer, that the choice would be very close, and to charge a man falsely and unjustly of having been addicted to habit forming drugs is a pretty serious thing. And how did it turn out? Dr. Magruder that they talked about this morning said, "No." And then we brought two, certainly one of the great experts of America down, Dr. Isbell and his associate down here from Lexington Hospital and they both told you absolutely not.

And further told you, the associate and Dr. Isbell, in his professional opinion, the man had never been addicted in his life and you know there is one other thing that makes me certain that he wasn't and this is to this defendant's credit, the Defendant Hoffa that saw him all that time didn't claim he was.

So if there is one fact in the record that has been conclusively established is the fact that the Defendant Partin was not addicted to dope.

In addition to that, what about him? We brought here the testimony of Mr. Bussi, the head of the AF of L-CIO for the whole State of Alabama. He said, "Oh, yes, I have heard these things about this man. I have heard him being charged with serious things but his word is his bond. Yes, I have heard things about him and Mr. Hoffa but I'd believe

Ed Partin on oath any time."

And we brought a man named Jumonville, who works some of the Teamsters there that Mr. Partin has charge of and Jumonville said this man is of good character, "I have had dealings with him and he will tell the truth. He is not a liar, he is entitled to be believed on his oath in a court of justice."

And then we brought Mr. Bennett, who is the president, the elected president, elected by the members, of the union at Baton Rouge and he says, "I have known this man a long time and he is entitled to be believed on his oath."

You know I thought when cross examination of Mr. Partin, Mr. Berke cross examined him for something over a half a day and I thought did a pretty good job, asked him about all these things he is supposed to have done in the past and I thought, "Sure, I am glad they didn't," I thought, "Sure when he got through with that good job they would all quit."

Well, but, oh, no, Mr. Partin was the piece de resistance, everybody had to get their tooth in him, and so they cross examined him for another five or six days.

It sort of reminded me of a story that I heard since I have been in this trial about a fellow that was on the witness stand and he testified about an assault and mayhem that had been committed. The lawyer kept pressing

him, "You say that this defendant bit the prosecutor's ear off?"

End Tk 27
Tk 28 fls.

Yes, sir, I did. I said that. Well, did you see it? Oh, no. Said I didn't see him do it. Well, how in the world can you swear that he bit his ear off? Oh, he said, I saw him spit it out.

And I thought after about five or six days of this that maybe some of them wished they had quit a little sooner.

Mr. Partin sat here and told you not once but many times of the conversation that he overheard at the hotel.

Some of which I have referred today. In addition to testifying about Tweel, oh, yes, he is up here to help me. He said that Hoffa said that they were going to get one juror or try to get one, to a few scattered jurors and take their chances. Does that sound like the truth?

He said, Hoffa called me into his room and told me when I came back he wanted me to pass something for him and put his hand behind his hip like that and hit his rear pocket. And then after you know I can just almost hear this, after this thing, I hate to use this language, but this is the record, after this thing happened down there before Judge Miller, Partin came back up here and Partin said he said to him, the dirty bastard went in and told the Judge that his neighbor had offered him $10,000. We're going to have to lay low for a few days.

How did Partin know about that? Partin was not at the hearing before Judge Miller. How would Partin have

known about how this tied in or known this had any meaning to him? How would he have known if he had been inclined to do so to make up any such story as this?

Partin said, Hoffa told me he wanted to get him to have Billy Wade come into town, circulate around, see if he knew anybody he could get on the jury, come into the courthouse and shake hands and mix with the defendants.

Hoffa said he would pay $15,000 to $20,000, whatever it cost, to get to the jury. King keeps telling me he can get the patrolman but he don't get him. He keeps talking about it and fumbling around. Then he said Hoffa said well, don't worry about it too much because I have got the colored male juror in my hip pocket. Said it looks like our best bet is a hung jury unless we can get to the foreman of the jury. Said if they have a hung jury it will be the same as acquittal because they will never try the case again.

Oh, they thinking about a long case, you know, that if you can just have a hung jury then that is the same as acquittal because you will never get tried again.

Hoffa was on him, King, again about making a contact not making a contact like he told he would and he wanted some insurance. Hoffa called King a stupid s.o.b. for fumbling around and not getting the job done.

On November 19th or 20th Hoffa told Partin that he was disturbed because the patrolman wouldn't take the money

How would Partin have known about that? How would he have known about that?

Hoffa said if he had taken the money he would have him pinned down and he couldn't have backed up. Said I told Mr. Hoffa that Mr. Tweel needed a jury list and we, Dorfman and Partin, told him that Mr. Tweel needed a jury list to call back Mr. Hall and tell him who was on the jury. He, Dorfman, read the jury list off to Tweel. The occupations, where they lived, and all was on the jury list, each individual photostat sheet.

That is what Partin says happened. But they say no, you can't believe that. You must disbelieve Partin. And therefore, you must acquit these defendants.

End 28
28a fls

Let me tell you something, ladies and gentlemen of the jury, when you get into a situation where you are trying to find out if a jury is being fixed, when you get into a situation where justice is being corrupted, where the stream of justice is being polluted, you are not going to find any elders and deacons and stewards and people in the church around. Oh, you may say, I don't think Partin is an entirely exemplary character. I say so, too.

But he was their associate. He was with them. He was there at least half the time. He has told you about things that he couldn't possibly have known unless he had been up there in that suite and heard them. Somebody keeps moving my books. Here it is. I am just about done, ladies and gentlemen. I know you are tired and I am tired and hot.

I have done the best I could in this concluding argument to present to you the government's position about the case. Oh, they would have you, ladies and gentlemen of the jury, to believe that we didn't offer the testimony of Walter J. Sheridan before this jury because we didn't want you to hear him and that is not true.

MR. HAGGERTY: Just a moment, may it please the Court--

MR. BRANSTETTER: (Interposing) May it please the Court--

MR. HAGGERTY: (Interposing) At this time I wish

to make this objection. That in the case in chief the government failed to offer the testimony of Walter Sheridan. They offered it in rebuttal for a particular purpose. Objection was made because in the defendants' opinion it was not proper rebuttal. The Court took it under consideration and ruled on it that it was not proper rebuttal. Therefore, I say this is an unfair statement made by Mr. Hooker at this time.

MR. SILETS: On behalf of all these defendants?

THE COURT: Ladies and gentlemen, you may consider this argument only as it may respond to argument of counsel for any defendant who may have argued--have argued the non-production by the government of Mr. Sheridan as a witness. You will not consider it for any other purpose or as to any other defendant on whose behalf such an argument was not advanced. Let's proceed to some other matter.

MR. SILETS: Your Honor, may we take exception to the Court's instruction?

THE COURT: Let's proceed to some other matter.

MR. BRANSTETTER: We would like to take exception and move for a severance on behalf of the Defendant Campbell because it was not in this proceeding.

THE COURT: Overruled.

MR. HOOKER: All I want to do, if your Honor please, is call attention to the objections of both Mr. Berke

and Mr. Haggerty that appear in the record in this case.

THE COURT: Well--

MR. HOOKER: (Interposing) Mr. Berke made the objection on Page 7676. In the first place, if your Honor please, this is the--

THE COURT: Well--

MR. BERKE: (Interposing) If your Honor please, that is not in the record before the jury.

THE COURT: Stick to the matters in the record.

MR. BERKE: You stick to the record, Mr. Hooker.

MR. HOOKER: I am sticking to it, just want to read what came out of your own mouth.

MR. BERKE: Explain to them why you didn't put him on in chief.

MR. HOOKER: Because I didn't think it was competent in chief until you made the assault on Partin, you didn't think so either.

MR. HAGGERTY: Well, the assault on Partin was made during cross examination and they hadn't closed their case yet.

MR. HOOKER: If your Honor please, I think fairness requires me to permit me to say that they both objected to it and your Honor sustained the objection and now they want to take the unfair position that we didn't want to offer the man as a witness.

MR. BERKE: Just a minute, Mr. Hooker. You never offered the witness. You could have put him on. Why didn't you put him on? You tried to put him on at the late stage. You had all the time in the world. We object to it. We were right according to law and we think that ends it.

THE COURT: All right, let's proceed to some other matter.

MR. HOOKER: Well, I am certainly entitled to say that that was not the reason. Now, ladies and gentlemen of the jury, you have got this situation, certain defendants are charged here with aiding and abetting. The third count of the indictment it is necessary for you to first convict Parks. Then you convict both the Defendants Hoffa and Campbell.

End Tk 28A
Tk 29 fls.

In the fourth count of the indictment it would be your duty, if you so find beyond a reasonable doubt, to first convict Tweel and then you may or may not convict the Defendant Dorfman. In the fifth count of the indictment, it would be your duty if you find beyond a reasonable doubt to convict the Defendant King and then you may or may not convict the Defendant Hoffa.

I say to you that it is the insistence of the government that the proof in this case shows beyond a reasonable doubt that all of these defendants are guilty. You have no responsibility with respect to the punishment. That is a matter for His Honor.

After having spent all of these days and weeks with you and looking now into your countenances I have every confidence that you will respond to the evidence and do justice in this case.

My friend, Mr. Haggerty -- Mr. Berke, quoted from the scriptures today in which I am proud to say that I also believe, in Deuteronomy it said that "Thou shalt not pervert justice, thou shalt not show partiality, thou shalt not take a bribe, for bribe blinds the eyes of wisdom and subverts the cause of the righteous."

I know you want to do what is righteous. I know you want to do what is honorable and right. You are sworn here you would. Yours is a great responsibility, a great

responsibility.

This is a case, the record of which will extend throughout the State of Tennessee and probably throughout the United States.

Mr. Hoffa is the head of the largest labor union in the world, but that don't give him a license to fix a jury, and I say to you, with all the sincerity at my command, that Chattanooga, after more than a hundred years, has survived a Chickamauga and a Missionary Ridge but Chattanooga can never survive the acquittal of those who have been proven to be guilty of contaminating, tampering with, and fixing a jury in the courts of justice of this state.

So permit me to say again, we will soon go our separate ways and I am deeply indebted to you for your conscientious service, your kind attention.

Thank you very much.

THE COURT: All right, ladies and gentlemen, take a recess at this time. Take a 10-minute recess.

(Thereupon, at 2:32 o'clock, p.m., a recess was had.)

End 29
30 fls

(After recess, in the absence of the jury, the following proceedings were had, to-wit:)

MR.BERKE: If Your Honor please, we would just like to read this brief motion into the record.

THE COURT: All right.

MR. BERKE: "Motion for mistrial.

"Comes now Defendant James R. Hoffa and moves the Court to declare a mistrial on the grounds that a final argument of United States Attorney John H. Hooker was highly prejudicial, inflammatory and calculated to arouse the prejudice of this community against Defendant and, more particularly were his remarks at the close, to wit:

'I say to you with all the sincerity at my command, Chattanooga has survived Chickamauga and Missionary Ridge, but Chattanooga can never survive the acquittal of these defendants of jury fixing in this state.'

"That such statement has such strong appeal to sectionalism and creates such bias and prejudice that it would be impossible for the jury to be fair in their analysis of the evidence.

"Respectfully submitted,

"James E. Haggerty

"Attorney for James R. Hoffa."

MR.BERKE: Of course, we also move that argument

be stricken.

THE COURT: All right.

MR. SILETS: On behalf of all defendants?

THE COURT: Allow the motion to be overruled.

Have the jury return.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: Ladies and gentlemen of the jury, I have always felt that in the trial of a lawsuit that the evidence and the argument of counsel is so much more interesting than the charge of the Court. Yet it is necessary and it is proper that the Court should instruct you with regard to the law in this case.

In order that you may try the case properly because you recall that you have taken an oath to try this case upon the evidence. While it is proper that you should consider counsel's arguments and listen to the manner in which they rationalize the proof, you will not decide this case upon any opinions expressed by counsel of the proof but you will decide this case on the basis of your opinion. You will listen to their arguments and you will give them fair consideration but you will decide this case on your opinion of the evidence and in accordance with the law as it is given to you by the Court in these instructions.

That was the oath that you took when you were first sworn in as a juror. Now as I say, the evidence I am sure you are going to find is much more interesting than what I have to say. The argument of counsel is much more interesting than what I have to say and therefore I must ask if you will please to give your careful attention to what I have to say to you because it is necessary that you should do that if you are going to arrive at a fair and just decision

in this lawsuit.

Now I have to be very careful in what I instruct you and charge you. I have to choose my words carefully. In doing so in order that I charge you as accurately upon the law as I possibly can and therefore it is necessary and appropriate that in doing that that I should follow my notes rather carefully and I hope that you will understand my doing just that.

In order that you may follow my charge, with greater understanding let me just briefly outline some of the subjects or some of the areas that I want to give you instructions upon and then as we come to the various areas you will recognize the plan of my charge and what I am attempting to convey to you.

End 30
31 fol.

In the first place I want to explain to you the indictment in this case and the counts that are for trial by this jury on that indictment.

Next I will want to explain to you the statute upon which this indictment is based and define the various terms used in the statute and in the indictment.

Next I will want to instruct you about the law with regard to aiding and abetting.

Next I will discuss with you the matter of venue. That word may not be very meaningful to you now but I shall explain it to you and what the significance of it may be in this case.

After doing that, I shall then state for you or outline for you the essential elements in each count of the indictment.

Following that I will want to state for you the theories or contentions of the respective parties as the parties have given the Court those theories and those contentions to state to you. In doing that I will not be expressing any opinion of the Court whatsoever but will be merely reading to you the theories or the contentions of the respective parties as the parties themselves have prepared those contentions and those theories.

Following that, I will then want to instruct you about some general rules that you should follow and some

general rules you will want to observe in conducting your deliberation, such matters as pertain to the credibility of witnesses, as to the weighing of evidence, as to the burden of proof and as to what we mean when we talk about reasonable doubt.

Following that I shall then take up each of the three counts of the indictment and explain to you the specific instructions that you are to follow in arriving at your verdict with regard to each count. Then I shall make certain concluding remarks.

Now, then let's go back and take up the indictment itself.

The defendants, James R. Hoffa, Larry Campbell, Thomas Ewing Parks, Allen Dorfman, Nicholas J. Tweel, and Ewing King are charged in three counts of the indictment with three separate violations of federal law relating to the obstruction of justice.

As I explained to you earlier, the indictment originally contained five counts but the first and second of these counts are not for trial at this time and you will, therefore, be concerned only with Counts 3, 4, and 5. Let me read those counts to you. Count 3, "The grand jury further charges:

"That during the period from on or about October 20, 1962, up to and including December 22, 1962, in the

Middle District of Tennessee, Nashville Division, Thomas Ewing Parks, James R. Hoffa, and Larry Campbell, defendants herein, James R. Hoffa and Larry Campbell aiding, abetting, counseling, commanding, inducing, and procuring Thomas Ewing Parks so to act, did unlawfully, knowingly, willfully, and corruptly endeavor to influence, intimidate, and impede a petit juror of a United States District Court in the discharge of his duty as such juror, to-wit: Gratin Fields, who, as the defendants then and there well knew, was then serving as a petit juror in the trial of United States versus James R. Hoffa and Commercial Carriers, Incorporated, Criminal No. 13,241, in the United States District Court for the Middle District of Tennessee, Nashville Division, in that Thomas Ewing Parks did meet with Carl Fields, a son of Gratin Fields, and did offer and promise to Carl Fields a sum of money, that is to say $5,000 for himself and $5,000 to be paid to Gratin Fields, for the purpose of causing Carl Fields to influence Gratin Fields to vote for the acquittal of James R. Hoffa in the said case."

Count 4 reads as follows:

"The grand jury further charges:

"That in or about the month of November 1962, in the Middle District of Tennessee, Nashville Division, Nicholas J. Tweel, James R. Hoffa, and Allen Dorfman, defendants herein, James R. Hoffa and Allen Dorfman aiding, abetting, counseling,

commanding, inducing, and procuring Nicholas J. Tweel so to act, did unlawfully, knowingly, willfully, and corruptly endeavor to influence, obstruct, and impede the due administration of justice in the trial of United States versus James R. Hoffa and Commercial Carriers, Incorporated, Criminal No. 13,241, in the United States District Court for the Middle District of Tennessee, Nashville Division, in that Nicholas J. Tweel did offer and promise money and things to value to Dallas Hall for the purpose of inducing Dallas Hall to communicate with, and to cause others to communicate with, petit jurors serving in the said trial with respect to the votes, opinions, and decisions of the said jurors in the said trial.

"Count 5. The grand jury further charges:

"That on or about November 18, 1962, in the Middle District of Tennessee, Nashville Division, Ewing King and James R. Hoffa, defendants herein, James R. Hoffa aiding, abetting, counseling, commanding, inducing, and procuring Ewing King so to act, did unlawfully, knowingly, willfully, and corruptly endeavor to influence, intimidate, and impede a petit juror of a United States District Court in the discharge of her duty as such juror, to-wit: Mrs. James M. Paschal, who, as the defendants then and there well knew, was then serving as a petit juror in the trial of United States versus James R. Hoffa and Commercial Carriers, Criminal No. 13,241, in the United States District Court for the Middle

District of Tennessee, Nashville Division, in that Ewing King did meet with James M. Paschal, the husband of Mrs. James M. Paschal, and did offer and promise to James M. Paschal assistance in getting him a promotion in the Tennessee State Highway Patrol for the purpose of causing him to influence Mrs. James M. Paschal to vote for the acquittal of James R. Hoffa in the said case."

Let's turn our attention now to the statute upon which the various counts of this indictment are based.

End 31
32 fls

The counts in the indictment are based upon Title 18, Section 1503, of the United States Code, commonly referred to as the Federal Obstruction of Justice Statute, which provides in relevant part that:

"Whoever corruptly endeavors to influence, intimidate, or impede any petit juror in the discharge of his duty, or corruptly endeavors to influence, obstruct or impede the due administration of justice shall be punished as provided by law."

You will notice that the statute as read, sets forth two offenses: First, that corruptly endeavoring to influence, intimidate or impede a petit juror in the discharge of his duty; and, second, that of corruptly endeavoring to influence, obstruct or impede the due administration of justice. The first of these offenses is charged in the third and fifth counts of the indictment. And the second is charged in Count 4.

In order that you may better understand the indictment, let me define for you some of the terms used in the indictment and some of the terms used in the statute.

The word "unlawfully" as used in the indictment means contrary to law. Hence, to do an act unlawfully means to do willfully something which is contrary to the law.

Willfully. An act is done willfully if it is done voluntarily and purposely and with the specific intent

to do that which the law forbids; that is to say, with bad purpose either to disobey or to disregard the law. You will note that the acts charged in the indictment are alleged to have been done knowingly. The purpose of adding the word "knowingly" was to insure that no one would be convicted for an act done because of mistake or inadvertence or other innocent reason.

The word "corruptly" as used in the indictment, in the sense of corruptly endeavoring to influence, intimidate, or impede a juror in the discharge of his duty, or in the sense of corruptly endeavoring to influence, obstruct or impede the due administration of justice, means for an improper motive. Such motive may be caused by the desire to aid someone else or it may be caused by the hope of pecuniary reward or benefit.

The word "endeavor" as used in the indictment means any essay or any effort to accomplish a purpose prohibited by the statute. The statute was enacted to safeguard the administration of justice and to insure the sanctity of trials against all corrupted efforts to undermine it and is violated even if such an attempt was unsuccessful. Guilt under this law is incurred by the endeavor or by the attempt and the statute may be violated even though the endeavor or the attempt wholly fails in accomplishing its unlawful purpose. It is not necessary for the government to establish

that the endeavor was successful in accomplishing its unlawful purpose before an offense be established under the statute.

The term "petit juror" as used in the statute means any person who has been summoned for jury service. The juror need not have been selected or sworn to sit as a juror in a particular case. It is sufficient if he has been summoned generally for jury service and may be selected as a juror in a particular case.

The phrase "discharge of his duty" as used in the portion of the statute referring to any corrupt endeavor to influence, intimidate or impede a petit juror in the discharge of his duty refers to duties of the kind which you are called upon to discharge in this case, namely, hearing the evidence and the instructions of the Court, duly deliberating upon the evidence under the law, and returning a just verdict based upon the law and the evidence. This portion of the statute may be violated by an approach to the corruption of a juror through members of his or her family even though such approach may be wholly unsuccessful in achieving its ultimate purpose.

The phrase "due administration of justice" as used in the portion of the statute referring to any corrupt endeavor to influence, obstruct or impede the due administration of justice means generally the performance of any acts or duties required by law in the discharge of a duty during

the trial of a case in court. This portion of the statute may be violated by a corrupt endeavor to induce a third person to communicate with and to cause others to communicate with petit jurors serving in a trial with respect to the votes, opinions and decisions of the jurors in such trial.

End Tk 32
Tk 32A Fls.

Specific intent must be proved with reference to the offense charged in each count on the part of each defendant before such defendant can be convicted of that offense. Specific intent requires more than a mere general intent to engage in certain conduct. A person who knowingly does an act which the law forbids or knowingly fails to do an act which the law requires intending with bad purpose either to disobey or to disregard the law, may be found to have acted with specific intent.

An act or failure to act that is done knowingly if it is done voluntarily and purposely and not because of mistake or inadvertence or some innocent reason. Let's turn our attention now to the field of the law relating to aiding and abetting. You will notice that the indictment, and as I have pointed out at the beginning of the trial, each count of the indictment contains a charge of aiding and abetting as well as a substantive charge or a principal charge.

In this connection I charge you that where two or more persons are charged in a count with the commission of a crime, the guilt of the defendants may be established without proof that each of the defendants did every act constituting the offense.

Under Title 18, Section 2 of the United States Code, the law provides, "Whoever commits an offense against the United States or willfully aids, abets, counsels, commands,

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Charge to the Jury

induces or procures its commission is punishable as a principal."

The law further provides "Whoever willfully causes an act to be done, which if directly performed by him or another would be an offense against the United States is punishable as a principal."

Now, in order to aid and abet another in a crime it is necessary that a defendant willfully associate himself in some way with the criminal venture, and that he willfully participate in it as in something he wishes to bring about and that he willfully seek by some action of his to make it succeed.

Every person who thus willfully participates in the commission of a crime may be found to be guilty of that offense. Participation is willful if it is done voluntarily and purposely and with the specific intent to do some act that the law forbids or fails to do some act that the law requires to be done. That is to say, with bad purpose either to disobey or to disregard the law.

In addition, in order to aid and abet the commission of a crime it is necessary that the alleged aider and abettor act with the knowledge that an offense is to be committed. The reason for this requirement of knowledge is to insure that no one will be convicted for an act done because of mistake or inadvertence or any other innocent

reason.

It is not necessary that there be any direct communication between the aider and abettor on the one hand and the individual who personally commenced the alleged offense upon the other hand. It is enough if the aider and abettor directs an intermediate agent to procure another to commit the felony, without naming or even knowing the person to be procured.

End 32A
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33 fol.

You may not, however, enter a verdict of guilty against an aider and abettor unless and until you first conclude that the defendant charged as a principal, that is, the person who is accused of having personally committed the offense, was, in fact, guilty as charged. In other words, you may not enter a verdict of guilty against either the Defendant Mr. Hoffa or the Defendant Mr. Campbell on Count 3 unless you determine that the Defendant Parks was guilty as charged in that count. Nor may you find the Defendant Mr. Hoffa or the Defendant Mr. Dorfman guilty on Count 4 unless you find the Defendant Mr. Tweel is guilty as charged. Nor may you find the Defendant Mr. Hoffa guilty on Count 5 unless you also determine that the Defendant Mr. King is guilty upon that count. This is because a man cannot be guilty of aiding and abetting the commission of an offense unless the person alleged to have committed the offense is determined to have done so.

You may, of course, find one or more of the accused aiders and abettors enumerated in any of the counts guilty without finding any other or others guilty, any other aiders or abettors, that is. In other words, on Count 3 you may find the Defendants Mr. Hoffa and Mr. Parks guilty and the Defendant Campbell not guilty or the Defendants Mr. Campbell and Mr. Parks guilty and the Defendant Mr. Hoffa not guilty. On Count 4 you may find the Defendants Mr. Hoffa

and Mr. Tweel guilty and the Defendant Mr. Dorfman not guilty, or the Defendants Mr. Dorfman and Mr. Tweel guilty and the Defendant Mr. Hoffa not guilty. Each defendant's case should be considered separately by you, and you are to give separate attention to each count of the indictment. But while you may find that only one aider and abettor named in Counts 3 and 4 is guilty and that the other is not, or that only the principal named in any of the counts is guilty and the alleged aiders and abettors are not, you may not find any aider and abettor guilty unless you also find that the defendant whom he is charged with having assisted is also guilty.

You will notice that each count of the indictment charges the commission of the offense alleged therein in the Middle District of Tennessee, the Nashville Division. This relates to the venue of the offenses charged, that is, to be placed where the offenses may legally be tried. In this case, of course, the defendants have agreed that their cases might be tried in this court at Chattanooga. It would still be necessary, however, for you to find that the offenses charged in the indictment were in fact committed in the Middle District of Tennessee, Nashville Division, before you can find any of the defendants guilty as charged in the indictment.

At the same time, I charge you that for purposes of this venue requirement an offense may be considered as having been committed in a particular district if it was

committed in two or more districts, and if it was begun, continued, or completed in the Middle District of Tennessee, Nashville Division.

I further charge you that, because of the law making an aider and abettor punishable as a principal, a defendant, or because of the law making an aider and abettor punishable as a principal, a defendant may be convicted of aiding and abetting in the district of the commission of the principal offense he is charged with having aided and abetted, irrespective of where he may have been at the time he aided and abetted, provided, of course, the jury finds that the principal offense was in fact committed within the Middle District of Tennessee, Nashville Division.

Let's turn our attention now to some of the elements in each of the respective counts of the indictment. Certain essential elements are required to be proved in order to establish each of the offenses charged in the indictment, and I want to explain these to you.

In Count 3 of the indictment, the Defendant Thomas Ewing Parks is charged with unlawfully, knowingly, willfully, and corruptly endeavoring to influence, intimidate and impede Gratin Fields in the discharge of his duty as a petit juror in the trial of the United States vs. James R. Hoffa and Commercial Carriers, Incorporated, and the Defendants James R. Hoffa and Larry Campbell are charged with aiding,

abetting, counseling, commanding, inducing and procuring Thomas Ewing Parks so to act.

The elements of the substantive offense charged against Thomas Ewing Parks are as follows:

First, that Gratin Fields had been summoned for jury service in the trial of United States vs. James R. Hoffa and Commercial Carriers, Incorporated.

Second, that the said trial was pending in the United States District Court for the Middle District of Tennessee.

Third, that the Defendant Thomas Ewing Parks, seeking to act through a member of the juror's family, unlawfully, knowingly, willfully, and corruptly endeavored to influence, intimidate and impede Gratin Fields in the discharge of his duty as a petit juror in that case.

Fourth, that the acts of the Defendant Thomas Ewing Parks were committed in the Middle District of Tennessee.

The elements of the offense of aiding and abetting as charged against the Defendants James R. Hoffa and Larry Campbell in the third count are as follows:

First, that the jury find beyond a reasonable doubt that all of the elements of the offense charged against the Defendant Thomas Ewing Parks have been proved; and

Second, that the Defendants James R. Hoffa and/or

Larry Campbell knowingly aided, abetted, counseled, commanded, induced and procured Thomas Ewing Parks so to act.

In the fourth count the Defendant Nicholas J. Tweel is charged with unlawfully, knowingly, willfully and corruptly endeavoring to obstruct an impede the due administration of justice in the trial of United States vs. James R. Hoffa and Commercial Carriers, Incorporated, through one. Dallas Hall, and the Defendants James R. Hoffa and Allen Dorfman are charged with aiding, abetting, counseling, commanding, inducing, and procuring Thomas--and procuring Nicholas J. Tweel so to act.

End Tk 33
Tk 33A fls.

The elements of the substantive offense charged against Nicholas J. Tweel are as follows:

First, that the Defendant Nicholas J. Tweel endeavored to influence, obstruct, and impede the due administration of justice in the trial of United States versus James R. Hoffa and Commercial Carrier, Incorporated.

Second, that the Defendant Nicholas J. Tweel offered and promised money and things of value to Dallas Hall for the purpose of inducing Dallas Hall to communicate with, and to cause others to communicate with, petit jurors serving in the said trial with respect to the votes, opinions, and decisions of such jurors in the said trial.

Third, that the Defendant Nicholas J. Tweel acted unlawfully, knowingly, willfully and corruptly.

Fourth, that the acts of the Defendant Nicholas J. Tweel were committed in the Middle District of Tennessee, or were begun, continued or completed in the Middle District of Tennessee as you were instructed above in regard to venue.

The elements of the offense of aiding and abetting as charged against the Defendants James R. Hoffa and Allen Dorfman in Count 4 are as follows:

First, the jury must find beyond a reasonable doubt that all of the elements of the offense charged against the Defendant Nicholas J. Tweel have been proved beyond a reasonable doubt as I have indicated.

Second, that the Defendants James R. Hoffa and/or Allen Dorfman knowingly aided, abetted, counseled, commanded, induced, and procured Nicholas J. Tweel so to act.

In Count 5 of the indictment the Defendant Ewing King is charged with unlawfully, knowingly, willfully, and corruptly endeavoring to influence, intimidate, and impede Mrs. James M. Paschal in the discharge of her duty as a petit juror, and the Defendant James R. Hoffa is charged with aiding, abetting, counseling, commanding, inducing and procuring Ewing King so to act.

The elements of the substantive offense charged against Ewing King are as follows:

First, that Mrs. James M. Paschal had been summoned for jury service in the trial of United States versus James R. Hoffa and Commercial Carriers, Incorporated.

Second, that the said trial was pending in the United States District Court for the Middle District of Tennessee.

Third, that the Defendant Ewing King, seeking to act through a member of the juror's family, unlawfully, knowingly, willfully, and corruptly endeavored to influence, intimidate, and impede Mrs. James M. Paschal in the discharge of her duty as a petit juror in that case.

Fourth, that the acts of the Defendant Ewing King were committed in the Middle District of Tennessee.

The elements of the offense of aiding and abetting as charged against the Defendant James R. Hoffa in the fifth count are as follows:

First, that the jury find beyond a reasonable doubt that all of the elements of the offense charged against the Defendant Ewing King have been proved; and

Second, that Defendant James R. Hoffa knowingly aided, abetted, counseled, commanded, induced and procured Ewing King so to act.

Now, then let me state for you or read to you the respective theories of the parties as those theories have been submitted to the Court. In doing so the Court is not stating its opinion about any evidence in the case but merely reading to you, as I state, the contentions of the parties and the theories of the parties as they have submitted them to the Court for this purpose. The government's theory with regard to the third count of the indictment is as follows:

The government contends that some time during the period of October 23rd, 1962, up to and including December 22nd, 1962, and more particularly around the last part of October and the early part of November of 1962, and during the trial of United States versus James R. Hoffa in the Federal District Court at Nashville, Tennessee,

End 33a
34 fls

,wherein the Defendant Mr. Hoffa was the only defendant then on trial, the Defendant Thomas Ewing Parks contacted Jack Walker. He informed Walker that they wanted to talk to juror Gratin Fields, and that they were willing to pay up to $10,000.00 to do so and that they needed one other person on the jury to hang the jury. The government further contends that the Defendant Parks had Jack Walker put him in communication with and contact with Carl Fields, the son of Gratin Fields, who was then sitting as a juror in the Hoffa case then on trial, and that during this contact with Carl Fields which occurred outside the shop of Jack Walker in Nashville, Tennessee, the Defendant Thomas Ewing Parks offered Carl Fields $5,000.00 for himself and $5,000.00 for his juror father if Carl would talk to his father and have his father vote for the acquittal of the Defendant Hoffa in that case on trial. Carl Fields declined to do this.

The government contends, thereupon, that Thomas Ewing Parks gave Carl Fields $100.00 and asked Carl Fields to find out what his father would wear to the Court the next day. The government contents that this information with respect to clothes was desired by the Defendant Parks to pass on to the Defendant Campbell in Louisville, Kentucky so Campbell could pass it on to the Defendant Hoffa.

The government further contends that Thomas Ewing Parks a few days later, induced Jack Walker to take him to

the place of employment of Mattie Leath, the daughter of juror Fields, and there attempted to have Mattie Leath tell them what her father would be wearing when he went to court each morning for the same purpose and that the same request was made of Carl Fields, her brother.

The government contends that the Defendant Hoffa had, through the Defendant Larry Campbell, a nephew of Thomas Ewing Parks, and a business agent of Local 299 of which the Defendant Hoffa was and is president, induced and procured Thomas Ewing Parks to make the illegal and unlawful approach to the son of Juror Fields. The government contends that Larry Campbell was in Louisville primarily or partially for the purpose of secretly communicating with Parks and assisting him in making the approach to members of the Fields family, and made numerous telephone calls to Thomas Ewing Parks during the latter part of October and during November of 1962 for this purpose. The government also contends that Parks was in Louisville and met Larry Campbell in carrying out the unlawful approach.

It is the government's theory that the Defendant Hoffa induced Campbell to set up the approach by Parks to members of the Fields family. They contend that Hoffa had told Partin not to worry too much about the case as he had the colored male juror in his hip pocket. That his business agent, Larry Campbell, had come to Nashville and fixed it.

They also contend that Hoffa stated that he was going to try to get to one juror or get to a few scattered jurors and take his chance, and that he would pay $15,000.00 to $20,000.00 or whatever it cost to get to the jury.

The government's theory with regard to the fourth count of the indictment is as follows:

It is the government's theory that during the latter days of November, 1962 the Defendant Nicholas J. Tweel called Dallas Hall in Nashville, Tennessee and offered something of value to Dallas Hall for the purpose of inducing Dallas Hall to communicate with and to cause others to communicate with the jurors then serving in the Hoffa trial in connection with the votes and decisions to be made by said jurors. They contend that during the course of the Nashville trial Tweel told Partin that Dorfman said that it would be a personal favor if Tweel would come down to Nashville and help him set up a method to get to the jury, and that Dorfman told Partin that Mr. Tweel was to contact Dallas Hall, a night club owner, for this purpose.

The government contends that Tweel came to Nashville, Tennessee at the suggestion of his acquaintance and business associate, Allen Dorfman. Tweel was motivated by his desire to obtain a loan from the Teamsters Pension Fund to advance his business interests. That he came to Nashville during the early part of the trial and met Dallas

Hall prior to returning to his home at Huntington, West Virginia. The government contends that during the latter part of November 1962, Dorfman asked Partin to contact Tweel to see if he had heard anything from Dallas Hall; that Partin called Tweel and Tweel said that he needed a jury list in order that he could contact Mr. Hall and read off the list to him so Hall could contact the people; that Partin reported this conversation to Dorfman and Hoffa and Hoffa arranged for Mr. Bufalino to provide a jury list; that Dorfman on the evening of November 27, 1962, placed a telephone call to Tweel from O'Brien's Beefery, Nashville, Tennessee; that on the way back from O'Brien's Beefery, Dorfman again called Tweel from the Union Station in Nashville, Tennessee but did not conclude the conversation but that a few minutes later Dorfman called Tweel at Mayflower Distributors, Inc., Huntington, West Virginia from an outdoor phone booth across from the Federal Courthouse in Nashville, Tennessee. The government contends that during this call the Defendant Dorfman read the jury list to Miss Hazel Fulton, the secretary of Defendant Tweel, after talking first to Tweel; that Miss Fulton starting typing the names, addresses, and occupations on the stationery of Mayflower Distributors, the firm with which she was associated, and Tweel told her, that is, Miss Fulton, to type the list on plain stationery; that Miss Fulton did so and gave the list and all copies to Mr.

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Tweel.

The government contends that on the same evening Tweel called Dallas Hall an hour and a half after the call from Dorfman; that Tweel asked Hall if he would do him a favor; that he asked Hall if Hall knew anyone on the Hoffa jury or knew anyone that knew anyone on the jury; that Tweel offered and promised Dallas Hall that if he could do anything it would be worth something to Hall and the other party too. The government contends that Tweel called Hall back late the next night from Tweel's home in Huntington and asked Hall if he had done anything or found anybody that could help out, to which Hall replied that he had not; that Tweel then asked Hall if he had seen the jury list, to which Hall replied that he hadn't paid any attention to the names as he wasn't interested in it; that Tweel then read to Dallas Hall the names, addresses, and occupations of the jurors; and that Dallas Hall pretended to take the names down and cooperate with the efforts of Tweel. The government further contends that thereafter Tweel called Hall again to determine if Hall had found out anything with respect to the jury, and upon being advised that Hall could not find anyone who could help out with the jury, Tweel told him to forget it.

It is the contention of the government that the purpose of the calls from Dorfman to Tweel and from Tweel to Hall was to corruptly induce Hall to communicate with and

to cause others to communicate with members of the jury.

The government contends that Hoffa and Dorfman aided and abetted Tweel in this corrupt endeavor to obstruct justice, that Hoffa told Partin that Tweel was there to help out, that Hoffa told Partin that he was going to try to get to one juror or a few scattered jurors and take his chances; and that he would pay $15,000.00 or $20,000.00 or whatever it cost to get to the jury; that when Hoffa was told that Tweel needed the jury list so that he could tell Hall who was on the jury, that Hoffa thereupon secured a jury list for Dorfman and induced Dorfman to make the telephone call to Tweel and read the list of jurors to him.

The government's theory with regard to the fifth count in the indictment is as follows:

The government contends that in the month of November, 1962 during the Nashville trial, Ewing King corruptly endeavored to influence Mrs. James M. Paschal, a juror in the Hoffa trial then in progress, by meeting with her husband at about 1:00 a. m. on a rainy night in a secluded country area near her home in Woodbury, Tennessee and offering to seek a promotion for the husband, patrolman Paschal, if he would talk to his wife and induce her to vote for an acquittal of JamesR. Hoffa. The government contends that the Defendant James R. Hoffa caused, induced and directed Ewing King to make this illegal, unlawful approach to

Patrolman Paschal; that Hoffa had stated that King wasn't doing what he told him to do; that King keeps telling him he can get to the patrolman but that he didn't get to him; that Hoffa was disturbed because the highway patrolman would not take money and said that if he had taken money it would have pinned him down and he could not have backed up. The government further contends that Hoffa was the only defendant at trial in that case; that his connection with Ewing King was extremely close and that Ewing King was then President of Local 327,Nashville, Tennessee; that King met Hoffa at the airport when he first arrived for the trial; that King regularly escorted Hoffa to the courthouse; that King was in court most every day of the trial; that many times King returned to Hoffa's suite after court; that Partin reported to Walter Sheridan that King planned to approach patrolman James Paschal; and that the federal government thereafter acting upon this advice initiated surveillance of Defendant King.

The gover nment contends that on the evening of October 27, 1962, the Defendant Ewing King went to the home of Oscar Pitts, a neighbor of the Paschals, with the desire and intent to get Paschal to take money to cause his wife to vote for an acquittal of Hoffa in the Hoffa trial. The government further contends that on the afternoon of November 16, 1962, that King went to the place of employment

of Oscar Pitts; that King and Pitts then agreed that if a meeting with Patrolman Paschal looked probable for the following night, that Pitts would call King and the telephone call would be a signal;and that on the following afternoon, November 17th, 1962, a Saturday afternoon, Oscar Pitts called Ewing King and reported to him that his old beagle hound died at eight o'clock.

The government further contends that on the evening of November 17, 1962, as a part of the plan to make this unlawful approach, King and one George Broda, another associate of the Defendant Hoffa, exchanged cars in order to avoid detection; that Ewing King went to the home of Oscar Pitts in Woodbury, Tennessee; that Oscar Pitts then took Broda's car into the town of Woodbury, Tennessee to locate Patrolman Paschal, that Pitts followed Patrolman Paschal to his home; that Pitts talked with Paschal in front of Paschal's house and arranged for King to meet Paschal at the Spring Road approximately two miles from the town of Woodbury. The government further contends that at about 1:30 a. m. that same night, Ewing King met with Patrolman Paschal in the secluded country area and offered to get Paschal a promotion with the Highway Patrol if Paschal would talk to his wife about voting for an acquittal in the Hoffa case and that this offer was made to Paschal in the presence of Pitts.

END 34
35 fol.

The government contends that this unsuccessful approach was reported to the Defendant Hoffa and the Defendant Hoffa expressed his disappointment in the patrolman not taking any money, as it would have been binding and then he could not back up.

The government contends that the testimony of Witness Partin is corroborated in every detail by the events that -- by the events made the subject matter of Counts 3, 4, and 5 of the indictment, and by the testimony of numerous witnesses substantiating these events.

That concludes the reading of the government's theory of the case.

Turn now to a reading of the Defendant James R. Hoffa's theory as submitted to the Court. The jury instructs -- the Court instructs the jury that it is the contention of the Defendant James R. Hoffa as follows:

First, that he did not know the Defendant Thomas Ewing Parks until after the completion of the Nashville trial.

Second, that he did not know the Defendant Nicholas J. Tweel until after the completion of the Nashville trial.

Third, that he knew the Defendant Larry Campbell for approximately the last 10 years, that Campbell is a business agent for the Teamsters Union in Detroit, but that he at no time saw Mr. Campbell in Nashville, Tennessee.

Fourth, that he has or has had a business relationship with the Defendant Allen Dorfman, that said Allen Dorfman being a broker for an insurance company which issues some of the insurance policies in connection with the Teamsters Union Health and Welfare Fund, and that on October 20, 1962, the Defendant Hoffa telephoned the Defendant Dorfman asking Dorfman to bring to Nashville, Tennessee, documents which Mr. Hoffa thought he might need in the trial at Nashville, Tennessee, relating to a prior business venture, and that thereafter the said Dorfman came to Nashville, Tennessee, from time to time to discuss with the Defendant Hoffa the program for the following year for the Teamsters Union Health and Welfare Fund.

Five, that the Defendant Hoffa did not invite Edward Partin to come to Nashville, Tennessee, during the trial of the case of the United States versus James R. Hoffa, but that the said Edward Partin came of his own accord under the pretense of attempting to convince Mr. Hoffa that the Teamsters local union in Baton Rouge, Louisiana, should not be placed in trusteeship by reason of Partin's being under indictment and other misconduct on Partin's part, but for the real purpose of fabricating evidence against Hoffa in order to serve his own purposes and interests.

Sixth, that the Defendant Hoffa never made any statements to Edward Partin relating to any attempts to

influence the vote of any juror or prospective jurors in the case of United States versus James R. Hoffa in Nashville, Tennessee, either by the Defendant Hoffa or any other person in his behalf.

Seven, that the Defendant Hoffa did not aid, abet, counsel, command, induce or procure Thomas Ewing Parks to endeavor to influence or impede a petit juror of the United States, to-wit, Gratin Fields, in the discharge of his duties as a juror in the United States District Court.

Eighth, that the Defendant Hoffa did not aid, abet, counsel, command, induce or procure Nicholas J. Tweel to endeavor to influence, obstruct and impede the due administration of justice in the trial of the United States versus James R. Hoffa.

Nine, that the Defendant Hoffa did not aid, abet, counsel, command, induce or procure Ewing King to endeavor to influence or impede a petit juror of the United States, to-wit, Mrs. James Paschal, in the discharge of her duty as such juror.

Turning next to the theory of the Defendant Thomas Ewing Parks as submitted to the Court by the said defendant, the Court instructs the jury that it is the position of the Defendant Thomas Ewing Parks that he did not in any way seek to influence any juror in the case of the United States versus James R. Hoffa and that he had no in-

influence the vote of any juror or prospective jurors in the case of United States versus James R. Hoffa in Nashville, Tennessee, either by the Defendant Hoffa or any other person in his behalf.

Seven, that the Defendant Hoffa did not aid, abet, counsel, command, induce or procure Thomas Ewing Parks to endeavor to influence or impede a petit juror of the United States, to-wit, Gratin Fields, in the discharge of his duties as a juror in the United States District Court.

Eighth, that the Defendant Hoffa did not aid, abet, counsel, command, induce or procure Nicholas J. Tweel to endeavor to influence, obstruct and impede the due administration of justice in the trial of the United States versus James R. Hoffa.

Nine, that the Defendant Hoffa did not aid, abet, counsel, command, induce or procure Ewing King to endeavor to influence or impede a petit juror of the United States, to-wit, Mrs. James Paschal, in the discharge of her duty as such juror.

Turning next to the theory of the Defendant Thomas Ewing Parks as submitted to the Court by the said defendant, the Court instructs the jury that it is the position of the Defendant Thomas Ewing Parks that he did not in any way seek to influence any juror in the case of the United States versus James R. Hoffa and that he had no in-

tention to do anything improper whatsoever; that he, at the request of Police Officer James Walker, who told Parks that he was on a government assignment, merely gave $100 to a person whom he was introduced to by Jack Walker. He did not know the said person was Carl Fields, or that he was the son of a juror in the Hoffa case. Mr. Parks did not at any time have any intention to violate the law or commit any offense whatever.

Next with regard to the Defendant Mr. Campbell, it is the position of the Defendant Campbell that he is not guilty of the matters with which he is charged in the third count of the indictment.

Next with regard to the theory of the Defendant Allen Dorfman as submitted to the Court by counsel for the said defendant.

The Court instructs you that it is the position of the Defendant Allen Dorfman that he met Nicholas J. Tweel in the early part of 1962 in connection with a cigarette company of which Mr. Tweel was president and from which Dorfman was interested in obtaining a distributorship; that thereafter Dorfman and Tweel had various business dealings and relationships, and in the spring of 1962 Dorfman became interested in an insurance company known as American Hemisphere Life Insurance Company of which Tweel was an organizer; that one of the companies owned by the Dorfman family was to be granted an exclusive servicing agency contract with that

insurance company by virtue of the fact that control of that company would be in the hands of Tweel, Sol Schwartz, who was a partner of Dorfman, and James Kalil; that on October 12th, 1962, the Defendant Dorfman attended a planned and scheduled board of directors' meeting in Huntington, West Virginia, relating to the organization of the American Hemisphere Life Insurance Company; that the stock of the insurance company was to be sold to the general public, but before it could do so, permission for such sale had to be obtained from the government; that Tweel and Dorfman were advised that such permission from the government would be difficult to obtain as long as the control of the company was held by a few individuals; that the Defendant Dorfman refused to permit the transfer of stock from his associates since that would cause the loss of the control of the insurance company and could no longer guarantee that his agency would obtain the exclusive servicing contract;

End 35
35a fls

that on that date, October the 12th, 1962, Tweel and Dorfman viewed two buildings in Huntington, West Virginia, which Tweel was interested in purchasing; that Tweel discussed the possibility of Dorfman arranging financing for the purchase of these buildings; that following the meeting in Huntington on October the 12th, 1962, Tweel and Dorfman tried unsuccessfully to meet in New York City; that on the night of October the 21st, 1962, Dorfman was telephoned by the Defendant Hoffa and requested to obtain and to bring to Nashville, before the start of the Nashville trial, certain records of business ventures in which Dorfman and Hoffa had participated; that Dorfman thereupon phoned his office manager, Meyer Breen, and directed him to proceed to Dorfman's office to accumulate the requested documents; that upon Sunday, October the 21st, 1962, Hoffa phoned Dorfman to determine whether the records would be assembled and brought to Nashville and was informed by Dorfman that they would be brought to Nashville before the start of the case; that thereafter Dorfman phoned Tweel and advised him of the necessity of Dorfman's being in Nashville and suggested to Tweel that they meet there rather than New York to discuss the urgent problem of stockholdings in the insurance company and to further discuss Tweel's interest in obtaining financing upon the West Virginia Building and the Pritchard Hotel in Huntington, West Virginia; that Dorfman arrived by chartered plane late in the evening

of October the 21st, 1962, and advised Tweel that he would discuss their business matters the following day; that Dorfman met with Tweel for a short time in the courtroom in Nashville on October the 22nd, 1962; that they walked back to the hotel and discussed their problems and continued those discussions for a short time in the lobby of the Andrew Jackson Hotel in Nashville, Tennessee; that Dorfman left Nashville by chartered plane at approximately 1:00 P.M. upon October 22nd, 1962; that about the middle of November, 1962, Tweel furnished Dorfman with two brochures pertaining to the facts and figures involving the two buildings in Huntington, West Virginia, for the purpose of assisting Dorfman in determining whether financing for that purpose could be obtained; that Dorfman contacted Mr. Alvin Baron, an expert in real estate matters, and furnished those brochures to him; that Baron returned the brochures around Thanksgivingtime, 1962, and advised Mr. Dorfman that an appraisal of the buildings would be necessary before he could render a professional opinion concerning them; that thereafter Dorfman arrived in Nashville, Tennessee, to discuss business matters with Mr. Hoffa and phoned Tweel at Huntington, West Virginia, to discuss with him the continuing problem involving the American Hemisphere Insurance Company, as well as the need for certified appraisals of the West Virginia Building and the Pritchard Hotel, and that whenever Dorfman spoke to Tweel by long distance

of October the 21st, 1962, and advised Tweel that he would discuss their business matters the following day; that Dorfman met with Tweel for a short time in the courtroom in Nashville on October the 22nd, 1962; that they walked back to the hotel and discussed their problems and continued those discussions for a short time in the lobby of the Andrew Jackson Hotel in Nashville, Tennessee; that Dorfman left Nashville by chartered plane at approximately 1:00 P.M. upon October 22nd, 1962; that about the middle of November, 1962, Tweel furnished Dorfman with two brochures pertaining to the facts and figures involving the two buildings in Huntington, West Virginia, for the purpose of assisting Dorfman in determining whether financing for that purpose could be obtained; that Dorfman contacted Mr. Alvin Baron, an expert in real estate matters, and furnished those brochures to him; that Baron returned the brochures around Thanksgivingtime, 1962, and advised Mr. Dorfman that an appraisal of the buildings would be necessary before he could render a professional opinion concerning them; that thereafter Dorfman arrived in Nashville, Tennessee, to discuss business matters with Mr. Hoffa and phoned Tweel at Huntington, West Virginia, to discuss with him the continuing problem involving the American Hemisphere Insurance Company, as well as the need for certified appraisals of the West Virginia Building and the Pritchard Hotel, and that whenever Dorfman spoke to Tweel by long distance

telephone during the months of October, November and December, 1962, it was concerning the problems of stock ownership in the insurance company and Tweel's interest in obtaining financing in the buildings in Huntington, West Virginia. At no time did Dorfman read a jury list of the Hoffa trial to Tweel. Dorfman never met the witness, Dallas Hall. Dorfman never met the witness, Hazel Fulton. Dorfman at no time asked anyone to do anything improper concerning the Hoffa jury, and never aided, abetted, counseled, commanded, introduced or procured anyone to influence, obstruct or impede the due administration of justice in that trial.

And that completes a reading of the theory of the Defendant Allen Dorfman.

End Tk 35A4
Tk 35B fls.

Turning next to the theory of the Defendant Nicholas J. Tweel as submitted to the Court. The Court instructs you, that is, instructs the jury that the position of the Defendant Nicholas J. Tweel is as follows:

That he is a businessman residing in Huntington, West Virginia, and that he did not know James R. Hoffa prior to the return of the indictment against him in this case. That he was without interest in the outcome of the case of the United States versus James R. Hoffa and Commercial Carriers, Incorporated, and that he committed no unlawful act with reference to said trial or the jurors serving therein whatever. That he sought to obtain information about the said jurors but that he did not undertake to cause that Dallas Hall named in the fourth count of the indictment, to communicate whatever or cause other persons to communicate whatever with the petit jurors serving in said case. That he did not endeavor and particularly did not corruptly endeavor to influence, obstruct, or impede the due administration of justice in the said trial.

End 35b
36 fls

That completes the reading of the theory of the Defendant Nicholas J. Tweel. Next the theory of the Defendant Ewing King is submitted to the Court and the Court instructs the jury that it is the position of the Defendant Ewing King that he did not at any time or on any occasion endeavor unlawfully, knowingly, willfully or corruptly to influence, intimidate, or impede a juror in the case of United States versus James R. Hoffa.

That completes a reading of the theories of the respective parties.

Turning your attention now to certain general laws and rules that you will want to follow in conducting your deliberations, you should keep in mind that each of the defendants has pleaded "not guilty" to all matters with which he is charged in the indictment, and that an indictment standing alone is not evidence of guilt and does not create any presumption of guilt or form the basis for any inference of guilt.

In criminal prosecutions the jury is the sole and exclusive judge of the facts, of the credibility of the witnesses and the weight to be given their testimony.

Although you as jurors are the sole judges of the facts, you are duty-bound to follow the law as stated in these instructions of the Court and to apply the law so given to you to the facts as you find them from the evidence

properly before you.

You are not to be concerned with the wisdom of any rule of the law. Regardless of any opinion that you may have as to what the law ought to be, it would be a violation of your duty as it would be of mine to base --, it would be a violation of your duty to base any verdict upon any view of the law other than that given in the instructions of the Court.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits which have been received in evidence, all facts which have been admitted or stipulated and all applicable presumptions stated in these instructions. Any evidence as to which an objection was sustained by the Court, and any evidence ordered stricken by the Court must be entirely disregarded, and that same instruction would apply to any argument of counsel, that you were ordered and instructed to disregard. Whenever the Court has sustained an objection to a question, you are to disregard that question, and you may draw no inference from the wording of the question or speculate as to what the witness would have said if permitted to answer. Nor may you assume that any party has objected to a question because that party expected the answer if given, to be unfavorable. The Court would further instruct you that it is the duty of attorneys on each side of the case to object when the other side offers

testimony or other evidence which counsel believes is not properly admissible. During the trial of this case the Court has permitted certain evidence to be introduced over the objection of counsel. In so ruling, the Court has not determined or indicated any opinion as to the weight or effect of such evidence. If during the trial you have gained the impression that the Court has an opinion in regard to the facts of this case, dismiss that impression from your mind because the Court meant to express neither by its manner nor by its voice any opinion of the facts of this case. You, the jurors, are the sole judges of the facts of the case and of the credibility of the witnesses.

You have a right upon consideration of all the evidence in this case to say where the truth lies upon any material fact in the case in the light of your own common observations and experience as men and women.

You will take all of the evidence adduced by the government, produced by the government and by the defendants and give it full, fair and impartial consideration. If there are conflicts in the statements of different witnesses, it is your duty to reconcile them if you can, for the law presumes that every witness has sworn the truth. But if you cannot reconcile them, the law makes you the sole and exclusive judges of the credibility of the witnesses and of the weight to be given to their respective testimony.

You, as jurors, are the sole judges of the credibility of the witnesses and the weight their testimony deserves. When I refer to a witness, I am referring to anyone who testified, including the defendants who may have testified. A witness is presumed to speak the truth. But this presumption may be outweighed by the manner in which the witness testifies, by the character of the testimony given, or by contradictory evidence. You should carefully scrutinize the testimony given and the circumstances under which each witness has testified, and every matter in evidence which tends to indicate whether the witness is worthy of belief. Consider each witness' intelligence, his motives, state of mind, his demeanor and manner while on the witness stand. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence.

You will draw no adverse inference or conclusion against any witness by reason of the fact that he may have exercised any constitutional privilege against testifying before any grand jury or any other legal proceeding.

There are a number of means of attacking a witness' credibility or, as it is sometimes said, impeaching a witness. Impeaching a witness simply means that the matters of impeachment may be considered by the jury in determining

what weight, if any, to give the testimony of the witness. If you believe that any witness has been impeached or his or her credibility impaired, it is your exclusive province to give the testimony of that witness such credibility, as you think he or she deserves.

If the witness is shown knowingly to have testified falsely concerning any material matter, you have a right to distrust such witness' testimony in other particulars;

End 36
36a fls

what weight, if any, to give the testimony of the witness. If you believe that any witness has been impeached or his or her credibility impaired, it is your exclusive province to give the testimony of that witness such credibility, as you think he or she deserves.

If the witness is shown knowingly to have testified falsely concerning any material matter, you have a right to distrust such witness' testimony in other particulars;

End 36
36a fls

and you may reject all or any portion of the testimony of that witness or give it such credibility as you may think it deserves. If it is shown that a witness has at different times made conflicting statements of material facts of the case as to which he testified, this may or may not cause you to discredit such testimony as in your judgment you think proper. Immaterial discrepancies or differences in the statements of witnesses do not affect a witness' credibility, unless there is something to show that they originate in willful falsehood. The testimony of an admitted perjurer should be considered with caution and weighed with great care. All evidence of a witness whose self-interest is shown from either benefits received, detriments suffered, threats or promises made, or any attitude of the witness which might tend to prompt testimony either favorable or unfavorable to the accused, should be considered with caution and weighed with care. Evidence that a witness has been convicted of a felony may be considered by you insofar as you determine that it may or may not affect the credibility of the witness. When an attempt is made to impeach a witness by showing a bad general reputation for truth and veracity in the community where the witness resides, the jury should consider such evidence along with evidence of good reputation if that is shown as to truth and veracity.

Should you find from the evidence in this case that

any witness was an accomplice, you should keep in mind that such testimony is to be received with caution and weighed with care. An accomplice is one who unites with another person in the commission of a crime, voluntarily and with a common intent.

There are certain general rules of law applicable to this case as to every other criminal case.

The law presumes a defendant to be innocent of crime. The prosecution must, therefore, prove the guilt of the defendant. The defendant is not required to prove his innocence. Every defendant starts into a trial with the presumption of innocence in his favor. That presumption of innocence is to be borne in mind by you throughout your deliberations in the case. The presumption of innocence alone is sufficient to acquit a defendant unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt from all of the evidence in the case.

Each of the defendants has entered a plea of not guilty to the respective count or counts in which he is charged. The effect of the plea of not guilty is to deny each material allegation of the count to which it is entered. The Government has the burden of establishing each of the elements of the alleged offenses beyond a reasonable doubt, and the burden remains upon the Government throughout the trial and never shifts. That is to say that after all of the

evidence presented by the Government and by the defense is in, ifthere is any reasonable doubt in your mind about the guilt of the defendant, it is your duty to acquit that defendant on such count or counts as to which you entertain a reasonable doubt. On the other hand, if the proof is such that it leaves you with no reasonable doubt as to the guilt of the defendant, it is then your duty to return a verdict of guilty with respect to such defendant as to such count or counts upon which you are satisifed of the defendant's guilt beyond a reasonable doubt.

End 36A
37 fol

What do we mean by reasonable doubt? Well, the words have no artificial meaning. A reasonable doubt is a fair doubt based upon reason and common sense and arising out of the state of the evidence; it is not a fanciful or imaginary doubt or a doubt unrelated to the state of the evidence. Although a defendant is not to be convicted upon mere suspicion or conjecture, the government need not prove its case to a certainty. It is rarely possible to prove anything to an absolute certainty. Consequently, proof beyond a reasonable doubt is established if the evidence is such that you would be willing to rely and act upon it in the most important of your own affairs.

A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is upon the prosecution to prove the accused guilty beyond a reasonable doubt of every essential element of the crime charged, a defendant has the right to rely upon the failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross examination of witnesses for the prosecution. The law does not impose upon a defendant the duty of producing any evidence.

A reasonable doubt exists in any case when, after careful and impartial consideration of all of the evidence, the jurors do not feel convinced to a moral certainty that the defendant is guilty as charged. To be satisfied beyond

a reasonable doubt of the defendant's guilt does not mean, as I have stated, that the government has to make out a case to an absolute certainty. It has to prove it only so as to leave no reasonable and substantial doubt in the minds of the jury. It is not required that it should exclude all doubt, but only exclude reasonable doubt. If there should be evidence in the case or lack of evidence that has created a reasonable doubt in your minds as to the guilt of the defendant, then the case is not made out beyond a reasonable doubt as to that defendant, but if there is no reasonable ground for doubting the defendant's guilt, then the case is made out beyond a reasonable doubt.

There are two types of evidence from which a jury may properly consider in determining the guilt or innocence of a defendant. One is direct evidence, such as the testimony of an eyewitness. The other is circumstantial evidence, and the proof of a chain of circumstances pointing either toward or away from the commission of the offense. It is proper that you should consider both types of evidence in arriving at your verdict.

As a general rule, the law makes no distinction between direct and circumstantial evidence, it simply requires that, before convicting a defendant, the jury be satisfied of the defendant's guilt beyond a reasonable doubt from all of the evidence in the case.

Any verdict which you render must be unanimous, and should represent the considered judgment of each juror as well as of the jury as a whole. In this connection, I charge you that it is your duty, as jurors to consult with one another and to deliberate with a view to reaching an agreement if you can do so without violence to your individual judgment. Each of you must decide the case for yourselves, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations do not hesitate to re-examine your own views and to change your opinion, if you should be convinced by reason and discussion of other jurors of the correctness of their views. However, do not surrender your honest convictions as to the weight or effect of the evidence merely for the purpose of returning a verdict.

Let's take a recess at this time, ladies and gentlemen, before completing the charge. Take about a 10-minute recess.

(Thereupon, at 4:07 o'clock P.M. a recess was had.)

End Tk 37
Tk 38 fls.

(Thereupon, in the absence of the jury of 12 and 4 alternates, and after recess, the following proceedings were had, to-wit:)

MR. BERKE: If your Honor please, may we suggest, excuse me. May we suggest that the Court advise the jury I think the way the Court instructed as to the second count that it is not for consideration at this time and left the impression that the second count is still at some future time, we would like for the Court to instruct the jury that this count has been dismissed by the Court for lack of proof, whatever the Court thinks appropriate.

THE COURT: All right.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

THE COURT: For such encouragement as it may be to you, there is not much more, ladies and gentlemen. Let's turn our attention again to the counts in the indictment, Count Three and Count Five charged respectively an unlawful approach to members of the family of jurors Gratin Fields and Mrs. James M. Paschal. With regard to Counts Three and Five, I instruct you that an approach to the corruption of a juror through members of his or her family may constitute an unlawful endeavor within the meaning of the law not withstanding the fact that such an approach may have been entirely unsuccessful

in accomplishing its ultimate purpose.

Count Three alleges that an unlawful offer was made to Carl Fields, the son of a juror, and Count Five alleges that an unlawful proposition was made to James M. Paschal, the husband of a juror. If you find beyond a reasonable doubt that an unlawful and corrupt approach or endeavor did occur as alleged in these counts by the respective defendants therein charged, namely, Defendant Thomas Ewing Parks in Count Three or Defendant Ewing King in Count Five, and that the said respective defendant knowingly, willfully, and corruptly participated in the endeavor with the purpose of unlawfully influencing the respective jurors therein referred to, you may find such respective defendant guilty on the count therein as charged, even if you may find that the matter was never mentioned or discussed by the members of the juror's family with the juror himself or herself.

If you should find the Defendant Parks guilty in accordance with these and all other instructions of the Court, and if you should find beyond a reasonable doubt that the Defendants Hoffa and Campbell, or either of them, aided and abetted the Defendant Parks therein, all in accordance with these and all other instructions of the Court, then as to such defendant or defendants whom you so find aided and abetted, your verdict would be that of guilty.

If you should find the Defendant King guilty in

accordance with these and all other instructions of the Court, and if you should find beyond a reasonable doubt that the Defendant Hoffa aided and abetted the Defendant King therein, all in accordance with these and all other instructions of the Court, then as to such defendant whom you so find aided and abetted, your verdict would be that of guilty.

Count Four charges the Defendant Tweel with unlawfully endeavoring to influence, obstruct, or impede the due administration of justice by seeking to cause one Dallas Hall to unlawfully communicate with jurors or with others who would in turn unlawfully communicate with jurors with respect to their votes, opinions, and decisions in the said Nashville trial, and charges the Defendants Hoffa and Dorfman with aiding, abetting, counseling, commanding, inducing, and procuring the said Nicholas J. Tweel so to act. If you find beyond a reasonable doubt that the Defendant Nicholas J. Tweel knowingly, willfully, and corruptly participated in offering or promising money or anything of value to Dallas Hall, for the purpose of inducing Dallas Hall to unlawfully communicate with any or all of the jurors in the case on trial at Nashville, or to induce him to find someone who would unlawfully communicate with the said jurors for the purpose stated in Count Four, you may find Defendant Tweel guilty on Count Four even if Dallas Hall communicated with no juror and had no intention of communicating with any juror. If you should find

the Defendant Tweel guilty in accordance with these and all other instructions of the Court, and if you should find beyond a reasonable doubt that the Defendants Hoffa or Dorfman, or either of them, aided and abetted the Defendant Tweel therein, all in accordance with these instructions, and all other instructions of the Court, then as to such defendant or defendants whom you so find aided and abetted, your verdict would be that of guilty.

Now, as to the Third Count of the indictment, I charge you that if you find from the proof beyond a reasonable doubt that during the period from on or about October 20, 1962, up to and including December 22, 1962, in the Middle District of Tennessee, Nashville Division, the Defendant Thomas Ewing Parks made an endeavor as alleged in the Third Count, and made such endeavor corruptly, and that such endeavor was directed toward the ultimate purpose of influencing, intimidating, or impeding a person who was then a petit juror, in the discharge of his duty as such petit juror, then the Defendant Thomas Ewing Parks would be guilty of the substantive offense charged in the Third Count.

End 38
39 fls

On the other hand, if you find from the proof or lack of proof that the Defendant Thomas Ewing Parks did not make an endeavor as alleged in the third count, in the Middle District of Tennessee, Nashville Division, during the period alleged in the third count, or that such endeavor was not made corruptly, or that it was not directed toward the ultimate purpose of influencing, intimidating, or impeding a person who was then a petit juror, in the discharge of his duties as such petit juror, or if from the proof or lack of proof you have a reasonable doubt as to any of these matters, then the Defendant Thomas Ewing Parks would not be guilty of the substantive offense charged in the third count.

As to the charge of aiding and abetting in the third count, I charge you that if you find from the proof beyond a reasonable doubt that during the period alleged in the third count, in the Middle District of Tennessee, Nashville Division, the Defendant Thomas Ewing Parks committed the substantive offense charged in the third count, and that the Defendants James R. Hoffa and Larry Campbell, or either of them, aided, abetted, counseled, commanded, induced or procured Thomas Ewing Parks to commit such substantive offense, and that they or either of them willfully associated in some way with such criminal venture, and willfully participated in it as in something desired to be brought about, and willfully sought by some action to make it succeed,

and do so knowingly, then the Defendants James R. Hoffa and Larry Campbell, or either of them as to whom you make such finding, would be guilty of the offense of aiding and abetting as charged in the third count.

On the other hand, if you find from the proof that Thomas Ewing Parks did not commit any substantive offense charged in the third count, or did not do so during the period alleged in the third count, in the Middle District of Tennessee, Nashville, Tennesee, or that the Defendants James R. Hoffa and Larry Campbell, or either of them, did not aid, abet, counsel, command, induce or procure Thomas Ewing Parks to commit such substantive offense or did not willfully associate themselves with such criminal venture as something desired to be brought about, or did not willfully seek by any action to make it succeed, or did not act knowingly, or if from the proof or lack of proof you have a reasonable doubt as to any of these matters, then the Defendants James R. Hoffa and Larry Campbell, or either of them as to whom you make such findings or have such doubt, would not be guilty of the aiding and abetting charge in the third count.

Turning your attention now likewise to the fourth count, as to the fourth count, I charge you that if you find from the proof beyond a reasonable doubt that in or about the month of November, 1962, in the Middle District of Tennessee, Nashville Division, the Defendant Nicholas J.

Tweel made an endeavor as alleged in the fourth count, and made such endeavor corruptly, and that such endeavor was directed toward influencing, obstructing or impeding the due administration of justice, then the Defendant Nicholas J. Tweel would be guilty of the offense charged in the fourth count.

On the other hand, if you find that the Defendant Nicholas J. Tweel did not make an endeavor as alleged in the fourth count, in the Middle District of Tennessee, Nashville, Tennessee, or did not do so on or about the date alleged in the fourth count, or that such endeavor was not made corruptly, or that it was not directed toward influencing, obstructing, or impeding the due administration of justice, or if from the proof or lack of proof you have a reasonable doubt as to any of these matters, then the Defendant Nicholas J. Tweel would not be guilty of the substantive offense charged in the fourth count.

As to the charge of aiding and abetting in the fourth count, I charge you that if you find from the proof beyond a reasonable doubt that in or about the month of November, 1962, in the Middle District of Tennessee, Nashville Division, Nicholas J. Tweel committed the substantive offense charged in the fourth count, and that the Defendants James R. Hoffa and Allen Dorfman, or either of them, aided, abetted, counseled, commanded, induced, or procured Nicholas J. Tweel

to commit such substantive offense, and that they, or either of them, aided, abetted, counseled, commanded, induced or procured Nicholas J. Tweel to commit such substantive offense, and that they, or either of them, willfully associated themselves in some way with such criminal venture, and willfully participated in it as something desired to be brought about, and willfully sought by some action to make it succeed, and did so knowingly, then the Defendants James R. Hoffa and Allen Dorfman, or either of them as to whom you make such findings, would be guilty of the offense of aiding and abetting as charged in the fourth count. Of course, as to aiding and abetting you would also have to find beyond a reasonable doubt.

On the other hand, if you find from the proof that Nicholas J. Tweel did not commit the substantive offense charged in the fourth count of the indictment, or did not do so in or about the month of November, 1962, in the Middle District of Tennessee, Nashville Division, or that the Defendants James R. Hoffa and Allen Dorfman, or either of them, did not aid, abet, counsel, command, induce, or procure Nicholas J. Tweel to commit such substantive offense, or did not associate themselves with such criminal venture, or did not do so willfully, or did not willfully participate in such venture as something desired to be brought about, or did not willfully seek by any action to make it succeed, or did not

act knowingly, or if from the proof or lack of proof you have a reasonable doubt as to any of these matters, then the Defendants James R. Hoffa and Allen Dorfman, or either of them as to whom you make such findings or have such doubts, would not be guilty of the offense of aiding and abetting as charged in the fourth count.

End Tk 39
Tk 39A fls.

Finally, turning to the Fifth Count. As to the Fifth Count, I charge you that if you find from the proof beyond a reasonable doubt that on or about November the 18th, 1962, in the Middle District of Tennessee, Nashville Division, the Defendant Ewing King made an endeavor as alleged in the Fifth Count, and made such endeavor corruptly, and that the endeavor was directed toward influencing, intimidating, or impeding a person who was then a petit juror, in the discharge of her duty as such petit juror, then the Defendant Ewing King would be guilty of the substantive offence charged in the Fifth Count.

On the other hand, if you find from the proof that the Defendant Ewing King did not make an endeavor as alleged in the Fifth Count, in the Middle District of Tennessee, Nashville, Tennessee, upon the date alleged in the Fifth Count or on or about that date, or that such endeavor was not made corruptly, or that it was not directed toward influencing, intimidating, or impeding a person who was then a petit juror, in the discharge of her duty as such petit juror, or if from the proof or lack of proof you have a reasonable doubt as to any of these matters, then the Defendant Ewing King would not be guilty of the substantive offense charged in the Fifth Count.

As to the charge of aiding and abetting in the Fifth Count, I charge you that if you find from the proof

beyond a reasonable doubt that on or about November 18th, 1962, in the Middle District of Tennessee, Nashville Division, Ewing King committed the substantive offense charged in the Fifth Count, and that the Defendant James R. Hoffa aided, abetted, counselled, commanded, induced, or procured Ewing King to commit such substantive offense, and that the Defendant James R. Hoffa willfully associated himself in some way with such criminal venture, and willfully participated in it as something he wished to bring about, and willfully sought by some action of his to make it succeed and did so knowingly, then the Defendant James R. Hoffa would be guilty of the offense of aiding and abetting as charged in the Fifth Count.

On the other hand, if you find from the proof that Ewing King did not commit the substantive offense charged in the Fifth Count, or did not do so on or about November the 18th, 1962, in the Middle District of Tennessee, Nashville Division, or that the Defendant James R. Hoffa did not willfully associate himself with such criminal venture, or that he did not willfully participate in such venture as something he sought to bring about, or that he did not willfully seek by any action to make it succeed, or that he did not act knowingly, or if from the proof or lack of proof you have a reasonable doubt as to any of these matters, then the Defendant James R. Hoffa would not be guilty

Now, do not begin your deliberations as yet. You are not released for the purpose of deliberating. Do not discuss the case among yourselves or allow anyone to talk to you about the case.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right, gentlemen, the jury having retired, are there any objections or corrections to the charge?

MR. HAGGERTY: A matter of exception, Your Honor.

THE COURT: All right, sir.

MR. HAGGERTY: Your Honor, while I have up to this moment, or up to the recess, as to the exceptions I would ask for a short period of time to get the balance of them, I think, I'd say twenty minutes, I'd like to get them. If I have twenty minutes to a half hour to get them ready in writing it will save time from reading it.

End 39A
40 fol.

THE COURT: All right, sir, let's take twenty minutes.

MR. NEAL: Before the recess, Your Honor, I still hate bringing this subject up, but I'm still induced by people with me to determine what the situation will be with respect to the surveillance hearing. Shall we start in the morning? Shall I have people here? We prefer the Court if possible--

THE COURT: (Interposing) Well, we will take that up before we adjourn this evening.

MR. NEAL: Very well.

THE COURT: Let's take twenty minute recess at this time.

MR. HAGGERTY: Twenty minutes to half an hour, Your Honor. The more I can bring in in writing the less time it will take.

THE COURT: Let's see if you can't do it in twenty minutes then, gentlemen.

(Thereupon, at 4:40 o'clock p. m., the Court was in recess.)

(At 5:10 o'clock p. m., in the absence of the jury, court was in session.)

MR. BERKE: If Your Honor please, for the record, do all the defendants have an automatic exception to the failure of the Court to give defendants' requested instructions

without repeating in substance each and every one of the requests for instructions which were denied?

THE COURT: Yes, yes, sir, the requested instructions that were filed the other day, each defendant would have an exception to the Court's action in deying any such requests.

MR. BERKE: We would like to make the following exceptions to the Court's charge and I understand other counsel have other exceptions.

In behalf of all defendants, we make the following exceptions to the Court's charge.

The Court is in error in telling the jury to disregard arguments of counsel.

Two. The Court is in error in stating that Mr. Hoffa is not on trial at this time on Count Two. In fact, he was on trial here and the Court acquitted him on this count.

Three. The Court unduly emphasized in its charge how the law is violated, but not the defendants' theories of why the law was not violated.

Four. The Court is in error in stating that in order to convict of aiding and abetting there must be proof that a principal had been found guilty as an aider and abettor can be found not guilty even if the principal would be found guilty.

Five. The Court is in error in stating that this offense is a continuing offense. Under the charges here the offense is not a continuing offense.

Six. The Court is in error in reading the government's theory which greatly prejudiced the defendant.

That would be all the defendants by stating over and over again the government contends, the government contends, and so forth, since the government's theory as presented was one-sided and not supported by the evidence and was not even a theory but merely a summary of all the evidence as used by the government, since the Court gave what we consider a summary of the evidence, then what the Court did was really read a closing argument of the government to the jury.

The Court disregarded that the evidence presented in this case contradicted and denied the government's evidence in all respects. The government's theory of its evidence as read to the jury by the Court places upon the government's evidence the Court's imprimatur.

The Court dwelt at great length on the contentions of the prosecution, reviewed each of the claims of the prosecution regarding each of the defendants with undue particularity. This occupied approximately twenty minutes of the charge of the Court and in expressing the position of the prosecution with reference to the contentions of the

It was error for the Court to cover the theory of the prosecution's case or the theory of the defendants since they had done this in the five hours allotted each side to summarize their case in their closing arguments to the jury.

The reiteration of the theories of the respective sides of this case served only to confuse the jury with extraneous and unsupported contentions and could serve no worthy purpose.

If this Court were to have taken this position in making this charge then the Court should have apprised all parties that their theories would be incorporated in his charge to the jury. In such an instance, each of the defendants would have presented to the Court a complete and comprehensive explanation of his theories of the case and a good example of this being that presented by Larry Campbell, who only stated he is not guilty or words to that effect. For the purposes for which Larry Campbell's theory was originally submitted this was sufficient. For the purpose for which the Court used it, it was totally lacking. This is not only in the case of Mr. Campbell but also in the case of all of the defendants that they could have elaborated to the extent which the government elaborated on its theory. Not being apprised that the Court would go into such an elaborate summary of all of the evidence the defendants were

40-4

prosecution. The claims of the defendants were covered by the Court and in a brief explanation of the position of each of the defendants.

End 40
41 fol.

TK 41
EW 1

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deprive of a fair charge by the Court on that issue only.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, it may appear that there are some repetition because these exceptions were worked on separately, but I assure your Honor that those which I will read border on the nature of the same subject matter.

The defendant excepts to the Court's charge wherein the Court spoke about the word "endeavor" and defined it and instructed the jury with reference to the approach of the families of a juror. It is the contention, defendant's contention, that in effect the Court is directing a verdict of guilty for the government and against the defendant by so instructing. The Court is invading the province of the jurors in its right to determine the evidence by telling them that any approach to the family of a juror is an offense and the defendant is guilty of such offense and deprives the jury of considering whether or not this was an attempt to influence or corrupt the juror.

The defendant excepts to the Court's instruction wherein the Court stated that any person who exercises his constitutional right or refusing to testify that no unfavorable inference should be drawn from this. It is the contention of the defendant that this is an invasion of the province of the jury and it is restricting the jury from considering such

testimony for the purpose of determining the credibility of the witnesses.

The defendant excepts to the Court's charge with reference to perjured testimony. It is the contention of the defendant that the Court should have instructed the jury that all false testimony should be disregarded and that all other testimony may be considered, but the testimony found to be false must be disregarded.

The Court's instructions on aiding and abetting placed an affirmative burden on the defendant to prove that he was not an aider and abettor.

Now, the defendant excepts to the Court's instructions to the jury that Counts One and Two are not for trial at this time for the reason that Count Two has been dismissed by the Court for lack of proof and particularly since evidence was offered with regard to Count Two the jury would be left with the impression that they should consider such evidence and that there was sufficient evidence on Count Two to constitute a crime.

The defendant further excepts to the Court's instruction of the law of aiding and abetting and reading Title 18 U.S.C. Section 2A and 2B for the reason that no evidence was offered under Section 2B and said instruction is also at variance in the charge of the indictment since the indictment does not make any charge under 2B.

41 - 4 .

The defendant excepts to the Court's instructions that the law presumes that every witness has told the truth for the reason that said instruction constitutes an improper statement of the law. It invades the province of the jury and takes away from the jury the right to consider the credibility of each witness.

The defendant excepts to the Court's instructions on the law relating to consideration of the testimony of an accomplice for the reason that such instruction is not within the evidence in this case and that such instruction tends to tell the jury that an offense was in fact communicated between defendants with others who acted as accomplices.

End Tk 41B
Tk 41A fls.

Defendant excepts to the Court's instructions to the jury to the effect that the evidence need not convince them beyond all doubt, beyond all reasonable doubt, reasonable substantial doubt, for the reason that such instruction improperly instructs on the law of reasonable doubt, decreases the government's burden of proof and minimizes the defendant's theory of innocence.

The defendant excepts to the Court's instruction on the alleged elements of the offense on Counts Three and Five of the indictment setting out as part of the said elements that the defendants intimidated or impeded the jurors mentioned in said counts for the reason there is no evidence of such intimidation or impeding of the jurors and said instruction is contrary to the evidence.

Now, may it please the Court, if I understood correctly in reference to the written instructions that were presented to the Court and your Honor entered an order on the written instructions, do I understand then that the Defendant Hoffa and all defendants have an automatic exception to the theory of the Court to give defendants requested instructions?

THE COURT: Yes, sir. It will not be necessary to repeat those or take exception to that order.

MR. HAGGERTY: Very well. Now, there is one thing more, your Honor, and that is the objections, defendant

exceptions to the Court's instructions in giving certain instructions of the government in charge, and I refer to Instruction No. 1, and I will ask your Honor at this time if we may have an automatic exception to the failure of the Court or the error of the Court in giving these instructions by mentioning the instruction by number, the government instructions by number, or shall I read them?

THE COURT: No, sir, you may mention them by number.

MR. HAGGERTY: All right. Government's No. 1, Government's Instruction No. 2, Government's Instruction No. 3, Government Instruction No. 4, Government Instruction No. 5, Government Instruction No. 6, Government Instruction No. 14 and particularly Government's Instruction 16 and 15, may it please the Court, 15 is the statement of the government's theory of the case.

Now, further, may I file the reasons set forth for the objection to each one?

THE COURT: Yes, sir.

MR. HAGGERTY: It is done in rough form, I have to apologize for it.

THE COURT: All right.

MR. HAGGERTY: And I have additional instructions not off the typewriter or exceptions that are not off of the typewriter, your Honor.

MR. SILETS: May it please the Court, may the Court understand and may the record fully disclose that I would like to adopt all exceptions taken by any other counsel with respect to any of the charges given by the Court and in addition adopt the request of Mr. Berke that I need not read the instructions that I tendered?

THE COURT: Yes, sir.

MR. SILETS: One, I except to the fact that the Court failed to instruct that Mr. Sheridan was not offered by the government in the government's case in chief and could have been.

Two, that the second count was not for trial at this time.

End Tk 41A
Tk 42 fls.

MR. SILETS: Three. That Section 1503 was improperly read to the jury.

Four. That as to Count Four of the indictment the Court stated there was a different type of violation.

THE COURT: Just one moment, you are getting ahead of me.

MR. SILETS: I am sorry, sir.

THE COURT: All right. Number Four.

MR. SILETS: As to Count Four the Court stated that there was a different type of violation and did not specify what the violation was but left it up to the jury to determine.

Five. That the Court equated the term endeavor with the phrase in any effort which is not a statement of the law under Section 1503.

Six. That an effort --, the Court stated that an effort to induce a third person to approach a juror is an endeavor but the Court did not indicate that that would constitute an endeavor if there was an approach only and was not with respect --, was an approach only with respect to the votes, opinions and decisions of those jurors in the case.

Seven. The Court erred in indicating that the theories given were those of each party and that the Court was not expressing the opinion of the Court but merely prepared by the parties and then specified each one separately

as requested by the separate counsel.

Eight. The Court said that the Defendant Dorfman was charged in each of three counts of the indictment.

Nine.

THE COURT: Where did the Court say that?

MR. SILETS: Your Honor, it was a phrase that the Court had used and the inference the way I picked it up and transcribed it was that each of the defendants were charged in each of the three counts. Now, you didn't say Dorfman specifically but you said each of the defendants were charged in the three counts of the indictment. And it sounded to me as though you were saying that each defendant.

May I continue, your Honor?

THE COURT: Just one moment.

MR. SILETS: I will drop that one if the Court --

THE COURT: (Interposing) I can't imagine having --, I find no place in my notes where any such statement was made.

MR. SILETS: All right, if your Honor please.

The next one is that the Court referred to the statute as the federal obstruction of justice statute which is an improper reference.

Ten. The Court stated with reference to the definition of corruptly that motive was important whereas motive is not part of the offense.

Eleven. The Court stated that in the definition of discharge of his duties that that was violated by any approach to the family of the jurors, but did not state that it had to be with the intent to influence the jurors.

Twelve. The Court defined specific intent but did not define the term willfully in the light of specific intent.

Thirteen. The Court stated that everyone who willfully participates in a crime is guilty of the offense, without pursuing that further.

Fourteen. The Court stated that it was not necessary that any direct communication be had between an aider and abettor and a principal, but it is enough if the principal procures an intermediator to procure the crime. This is not a full statement of the offense.

Fifteen. The Court did not specifically state that the Defendant Dorfman could be found innocent even though the jury found the Defendant Tweel guilty.

Sixteen. The Court stated that one of the elements of Count Four that there was an obstruction of justice in and through one Dallas Hall and did not set out separately that it had to be done with the effort with respect to Dallas Hall had to be with the purpose of influencing votes, opinions and decisions.

Seventeen.

THE COURT: Just one moment. All right.

MR. SILETS: Seventeen. The Court said concerning aiding and abetting in Count Four with reference by the Court language was James R. Hoffa and/or Allen Dorfman which is confusing to the jury.

Eighteen. The Court made reference to the respective parties. Again having submitted the theories especially the theory of Count Four and the Court indicated that was submitted by Dorfman's counsel. This is incorrect in that it is the theory of the defendant and not his counsel.

End 42
42a fls

THE COURT: Again that was a request specifically made by each defendant. One made by Mr. Hoffa and adopted by every defendant in the case. All right, proceed.

MR. SILETS: Number twenty-two. The Court instructed that there must be no "reason and substantial doubt in order to find the defendants guilty." This is not an accurate statement of the law. It need not be substantial grounds.

Twenty-three. The Court instructed that there are two kinds of evidence, direct and circumstantial. It failed to instruct that an inference may not be drawn upon an inference and if there are two possible hypotheses, one consistent with guilt and one consistent with innocence that the jury must accept the hypothesis of innocence.

Twenty-four. In setting forth the elements of Count Four for the second time the Court referred to requirements to establish Mr. Tweel's guilt and stated that the endeavor had to be "for the purposes stated in Count Four" which does not accurately charge the jury what the purpose was.

Twenty-five. The Court charged "The jury was to find the Defendant Tweel guilty even though Dallas Hall did not contact anyone or had no intention of contacting anyone." This is an inaccurate and improper statement of the law.

Twenty-six. The Court charged with respect to one of the elements of Count Four that it "was in or about the month of November, 1962." The Court has not charged the jury with respect to the bill of particulars filed with the Court as to each element answered by the government with respect to Count Four and in particular to the dates of the alleged offense as set forth in the bill of particulars.

Twenty-seven. The Court charged with respect to Count Four in determining whether the Defendant Nicholas Tweel could be held guilty and failed to state that such was with respect to the votes, opinions, and decisions.

Twenty-eight. The Court--

THE COURT: (Interposing) Wait a minute, No. 27, I missed your No. 27.

MR. SILETS: Your Honor, No. 27 is that the Court failed to state it was with respect to the votes, opinions, and decisions as to Count Four that Mr. Tweel could be held guilty to.

THE COURT: All right.

End Tk 42
Tk 43 fls.

28th. The Court in charging for the second time with respect to the elements of counsel, and particularly as to aider and abettor referred to the elements with respect to the defendants James R. Hoffa and Allen Dorfman,"and they or either of them" and that leaves the jury confused and does not permit them to give separate consideration as to the elements of the crimes charged against Hoffa and those charged against Dorfman.

Twenty-nine. The Court instruced that evidence admitted solely against other defendants should not be considered against the defendants whom such evidence was not admitted. This instruction is insufficient in light of the fact that all of the evidence was introduced and co-mingled against all defendants without limitation and without precise instruction at the time that such evidence was introduced for a limited purpose and though the Court now states that the jury is to refer to such instructions made at that time of the admission of such evidence, no such instruction was given throughout the trial at the time of the introduction of the bulk of the evidence in this case.

THE COURT: All right.

MR. SILETS: Thirty. In general the Court has throughout this charge invaded the province of the jury by virtue of comment upon the evidence and has unfairly presented the law to the jury.

Thirty-one. The Court has in general and throughout unfairly charged the jury and has prejudiced them against the defendants inasmuch as the majority of the charges have ended with the conclusion that the defendants be found guilty.

Thirty-two. With respect, if Your Honor please, with respect to the theory of the government's case, which was their instruction number fifteen, I wish to state that the court had read the phrase, "Hoffa said he was going to try to get one juror or a few scattered jurors and take his chances, that he would pay $15,000.00 to $20,000.00, whatever it cost to get to the jury."

The Court read that with respect to Count Four and that was not adduced by the prosecution as part of their proof in Count Four but related to affairs and events occurring at times other than those in the presence of the defendants Tweel and Dorfman.

The Court included in its statement of the government's theory the phrase "Tweel was motivated by his desire to obtain a loan from the Teamsters Pension Fund to advance his business interests."

That is without foundation in the evidence and it has never been mentioned in the record at all.

The Court stated the phrase,"Dorfman admitted that on the evening of November 27th, 1962, he placed a telephone

call to Tweel from O'Brien's Beefery in Nashville, Tennessee." That phrase is not supported by the testimony of the Defendant Dorfman.

Then the Court added this phrase, added this word "that on the way back Dorfman again", the word "again" was added by the Court, though not requested by the government.

The Court stated the phrase that Tweel "asked Hall if Hall knew anyone on the Hoffa jury or knew anyone that knew anyone on the jury." That phrase is not supported by the evidence.

The Court read the phrase "Tweel then read to Dallas Hall the names, addresses and occupations of the jurors." That is not supported by the evidence.

The Court read, "Tweel called Hall again to determine if Hall had found out anything with respect to the jury."

That is not supported by the evidence nor is the balance of the sentence "upon being advised if Hall could not find anyone who could help out with the jury Tweel told him to forget it."

In general with respect to the theories of the case as given by the Court I submit that the government is not entitled to submit its theory of the case since it is required to prove the offense charged.

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The jury must consider the government's case on the evidence and not on the government's theory. This instruction constitutes, therefore, an improper argument by the Court on behalf of the prosecution.

End 43
43A

Furthermore, it is obvious that this instruction is not supported by the evidence, is an unwarranted and unfair comment on the evidence, is one cited, misleading, and contains deductions and theories not warranted by the evidence and constitutes advocacy by the court on behalf of the government.

Further that this instruction which was given and requested by the government is objectionable in that it highlights, accentuates, points up certain aspects of the government proof and thereby minimizes and obscures the defendants evidence and in effect obstructs and informs the jury that they should give greater consideration of the government's case and its evidence.

It is error to give a theory of the government's case inasmuch as the government's theory is in the indictment.

Your Honor, with respect to the accomplice request or the Fifth Amendment request as to the witness Partin, the Defendant Hoffa request No. 56, which was adopted by, I think, most other defendants, but particularly the Defendant Dorfman, was as follows:

"The government witness Edward Partin during his

testimony in this case refused to answer certain questions stating that answers to such questions might tend to incriminate him. You are instructed that you may consider the witness' refusal to answer such questions in weighing his credibility as a witness."

And my memory was correct, I am now informed, that the defense did not offer an accomplice instruction. Now, if there was one offered I don't know by whom, I don't believe I offered one.

MR. HAGGERTY: None offered.

MR. SILETS: Again, Your Honor, if any exceptions are taken by counsel who follow me I would like to adopt those on behalf of the Defendant Dorfman.

MR. BRANSTETTER: On behalf of the Defendant Campbell, may it please the Court, I adopt all of those exceptions that have been taken so far that would necessarily relate to the Defendant Campbell and in addition thereto state that the Defendant Campbell specifically takes exception to the reading by the Court of the government's theory wherein the Court read to the jury the contentions of the government that were unsupported by the evidence or any reasonable inference therefrom, particularly that the government "contends that Larry Campbell was in Louisville primarily or partially for the purpose of secretly communicating with Parks and assisting him in making the approach to members

testimony in this case refused to answer certain questions stating that answers to such questions might tend to incriminate him. You are instructed that you may consider the witness' refusal to answer such questions in weighing his credibility as a witness."

And my memory was correct, I am now informed, that the defense did not offer an accomplice instruction. Now, if there was one offered I don't know by whom, I don't believe I offered one.

MR. HAGGERTY: None offered.

MR. SILETS: Again, Your Honor, if any exceptions are taken by counsel who follow me I would like to adopt those on behalf of the Defendant Dorfman.

MR. BRANSTETTER: On behalf of the Defendant Campbell, may it please the Court, I adopt all of those exceptions that have been taken so far that would necessarily relate to the Defendant Campbell and in addition thereto state that the Defendant Campbell specifically takes exception to the reading by the Court of the government's theory wherein the Court read to the jury the contentions of the government that were unsupported by the evidence or any reasonable inference therefrom, particularly that the government "contends that Larry Campbell was in Louisville primarily or partially for the purpose of secretly communicating with Parks and assisting him in making the approach to members

of the Fields family and made numerous telephone calls to Thomas Ewing Parks during the latter part October and during November for this purpose. The government also contends that Parks was in Louisville and met Larry Campbell in carrying out the unlawful approach. This contention was argumentative and totally unsupported by any proof whatsoever."

Campbell excepts to the Court's definition of reasonable doubt wherein the Court referred to reasonable doubt as "substantial reasonable doubt".

The Defendant Campbell excepts to the instruction of the Court in stating that the presence of Campbell in the Middle District of Tennessee, constructively or otherwise, was not required as an element of the offense charged against him in Count Three.

Now, generally, I believe the Court stated also that we had the benefit of the previous order of the Court wherein certain instructions were refused. I have this in writing such as it may be filed.

THE COURT: All right.

MR. BRANSTETTER: Then generally I have a few other exceptions, particulary in charging the theory, in the Court's charging the theory on principal and agent. The indictment charges the Defendant Campbell and/or others in that respect as an accessory under Title 18 USCA 2A and not as a principal under Title 18 USCA 2B.

The Court erred in giving a combined instruction on the impeachment of witnesses by showing interest, hope of benefit or leniency.

In view of the evidence in this case the defendants were entitled to a separate instruction on each of these specific conditions which would impeach a witness. The Court failed to charge that in order to convict the Defendant Campbell, Hoffa and Dorfman would fall in the same category, as an accessory the jury must find beyond a reasonable doubt that he committed some act, physical or oral, to aid the commission of the offense.

The Court erroneously charged the jury with respect to "failure to act". There is no omission charged in the indictment. The Court erred in instructing the jury on the credibility of an accomplice. I believe that has been previously mentioned, because this implies a crime has been committed and invades the province of the jury.

The Court erred in instructing the jury on the legislative purpose of the statute involved. The Court, in commenting on the evidence, failed to make it clear that all matters of fact are to be determined by the jury.

The Court in its charge engaged in deductions and theories not warranted by the evidence.

The repetition by the Court of charges on Counts Three, Four and Five laid undue emphasis on the prosecution's

43-4

theory. The charge unduly emphasized the circumstances under which the defendants could be found guilty without equal emphasis on the circumstances under which the defendants could be found not guilty.

The Court erred in charging the jury on the theory that all defendants are principals.

End 43
44 fol.

MR. SCHIFFER: If your Honor please, on behalf of the Defendant Thomas Ewing Parks, hereby respectfully excepts to the failure of the Court to give his requested instructions No. 24, No. 25, No. 26, No. 27, No. 33, No. 34, No. 46, No. 48, No. 49, No. 50, No. 52, No. 54, No. 56, No. 57, No. 58, No. 59, No. 60, No. 61, No. 65, No. 68, No. 69, No. 70, and No. 72.

THE COURT: Well, you can have an exception to all those that were denied without re-reading them.

MR. SCHIFFER: I just want to read one for instance, if your Honor please.

For the reason that all the said requested instructions constitute proper statements of the law and the failure of the Court to so instruct deprives the defendant of having the jury instructed on the defendant's theory of his innocence thereby causing the Court's instructions to be misleading, confusing, one-sided and prejudicial to the rights of the defendant.

And with the Court's permission we also adopt all prior exceptions and objections filed and stated for the record.

THE COURT: All right.

MR. BROWN: Your Honor, on behalf of the Defendant King we adopt all objections and exceptions heretofore entered.

THE COURT: All right.

MR. ALEXANDER: May it please your Honor, I have a number of exceptions to the failure to give certain of the Defendant Tweel's instructions and in giving some of the government's instructions and as Mr. Schiffer said if I might just pass this in without reading that portion of it. Now, in addition --

THE COURT: (Interposing) Gentlemen, before we proceed further with this, I am going to call the jury back just a moment. Have the jury return.

MR. SILETS: Your Honor, I think that in just a minute we would complete our objections.

MR. ALEXANDER: It won't take me but just a minute.

THE COURT: Well, all right.

(Thereupon, at 5:45 o'clock, p.m., the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: You may just remain standing. Ladies and gentlemen of the jury, I'm going to excuse the jury at this time to report back at 7:00 o'clock. If you will please now observe the instructions that I have heretofore given you, do not talk about the case among yourselves, do not allow anyone to talk to you about the case or in your presence. You may be excused at this time to report back at 7:00 o'clock

this evening.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right, Mr. Alexander.

MR. ALEXANDER: Now, continuing, your Honor, Mr. Silets I believe covered this next objection but I did want to --

THE COURT: (Interposing) Would you start from the beginning on your objections, please, sir?

MR. ALEXANDER: Well, I handed in the copy of the specific number of objections which you did not want read, I believe you told Mr. Schiffer.

THE COURT: All right.

MR. ALEXANDER: That was about the only thing that I had done. Defendant Tweel objects to the charge of the Court pertaining to said Defendant Tweel attempting to obtain a loan from the Teamster Pension Fund inasmuch as said evidence does not appear in the record but only in the government's theory of the case.

And I refer your Honor specifically to page 3343, at the bottom, and at the top of page 3344, in the testimony of the Witness Partin pertaining to a conversation between Mr. Dorfman and Mr. Partin, where Mr. Partin said, yes, sir, he said that Mr. Dallas Hall who Mr. Tweel was supposed to

contact was an exclusive nightclub owner in the area and that he had a lot of contacts and he also said that Mr. Tweel was trying to arrange a loan from him to build some warehouses or warehouse. I am not sure whether he said warehouses or warehouse.

In other words, to obtain a loan from him. There was no specific mention of any Teamsters Pension Fund loan and the only place I believe that it has ever been mentioned is in the government's theory of their case.

End 44
44a fls

The next objection, the Defendant Tweel objects to the charge of the Court pertaining to the said Defendant Tweel attempting to--well, that is--to charge of the Court wherein on two occasions in said charge the Court instructed as to a guilty verdict but only one time did the Court charge as to not guilty, thereby underscoring and emphasizing the guilt aspect of said charge.

If your Honor will look at his charge I believe that possibly through inadvertence on two occasions, one right after the other, you charged them as to finding the Defendant Tweel guilty but only one time was the charge as to not guilty. Thereby I believe emphasizing that point.

MR. SILETS: Your Honor, I have one--

MR. ALEXANDER: (Interposing) Excuse me a minute, Mr. Silets. If it please your Honor, we would, of course, like to adopt any other objections on exceptions filed by any defense counsel and most particularly those filed by Mr. Silets who pertained more particularly to Count Four.

THE COURT: All right.

MR. SILETS: Your Honor, I would like to add one objection, in defining the offense necessary proof to establishing venue the Court having said the offense must have been committed in the Middle District of Tennessee. The Court stated that the offense may be in one district if

begun, continued or committed and under those circumstances if it were anywhere begun, continued or committed in the Middle District of Tennessee. I believe that this is not a fair statement of the offense as to Count Four in the establishment of venue required under Count Four inasmuch as the only evidence as to Mr. Tweel relates to his activities in Huntington.

THE COURT: All right.

MR. HAGGERTY: On the defendant's request to charge where your Honor by his order indicated he would charge in part or in substance there are several which your Honor has failed to charge on at all. And it is entirely without your charge and I think it is essential under these facts in this case and under the circumstances should be charged.

The first is Defendant Hoffa's request for Instruction No. 15 and that is the prosecution must be considered in no different light than any other litigant and counsel for the government must be considered in no different light than counsel for the defendant or the other litigants. The case requires jurors to have deliberate consideration of the evidence relating solely to the crimes charged in the indictment. The law does not permit the jurors to be governed by conjecture, passion or prejudice, public opinion or public feeling. That was omitted.

End Tk 44A

That was omitted entirely from your Honor's charge.

THE COURT: Well, I do have a few final remarks to make to the jury and will specifically mention --

MR. HAGGERTY: (Interposing) I call your Honor's attention that you failed to give defendant's request or any part, you did strike vital portions to the prejudice of the defendants, but I think it's No. 28 and 29 has not been covered in your Honor's charge and I think it's necessary that it be included. I don't recall that your Honor gave any charge along this line.

"The Court instructs the jury that any verdict that you render must be unanimous, that it must be agreed to by the jurors and that it must be the verdict of each juror as an individual, as well as the jury as a whole. No juror should vote for conviction unless he is convinced in his own mind beyond a reasonable doubt that under the evidence and the Court's instruction the defendant is guilty and that no juror should set aside his opinion for the mere sake of expediency."

Your Honor used a portion of it but I say took out a very vital part.

THE COURT: What charge is that?

MR. HAGGERTY: That is 28, 28, your Honor. I don't recall that your Honor specifically gave in substance

the short request in Instruction No. 29 of requested charge:

"The Court instructs the jury that any verdict that you render must be unanimous, it must be agreed to by the jurors and that it must be the verdict of each juror as an individual as well as the jury as a whole."

I think that was omitted.

Again I refer your Honor to 30 and 31, without going into particulars, but on each one I think it's a vital instruction and a necessary instruction that the whole or a part of those instructions be given.

That about covers it, your Honor.

THE COURT: All right. All right, if nothing further at this time let's recess court until 7:00 o'clock.

(Thereupon, at 5:55 o'clock, p.m., court was adjourned until 7:00 o'clock, p.m.)

End 45
46 fls

EVENING SESSION

7:00 O'Clock P.M.
March 3, 1964

(Thereupon, pursuant to adjournment from the afternoon session, court was in session.)

THE COURT: Gentlemen, the Court proposes to allow the jury to take with them during their deliberations a copy of the indictment with all reference to the first and the second counts being eliminated. This being a--well, let's wait until all attorneys are here. I am sorry, I didn't notice, I believe Mr. Alexander is absent.

MARSHAL SERTEL: Court is still in session.

MR. SCHIFFER: To save the time of the Court, I just conferred with Mr. Tweel and he has agreed until his attorneys appear, why, Mr. Brown and myself may look after his interests. We offer that as a suggestion but with Mr. Tweel's consent.

THE COURT: I would prefer to have them present. Let's wait a few more moments to see if the gentlemen arrive. Since counsel are present, if they desire to examine the--all right, Mr. Alexander has arrived.

Gentlemen, the Court proposes to submit to the jury at the time that they retire for deliberation a copy of the indictment with--a photocopy of the indictment with the first and second counts of the indictment completely eliminated.

from the photocopy of the indictment, having only Counts Three, Four and Five in the indictment.

I will file a copy of this with the Clerk in order that the record may reflect exactly what was being delivered to the jury.

End Tk 45A
Tk 46 fls.

MR. HAGGERTY: On behalf of the Defendant Hoffa I object to this procedure as the indictment is not evidence in the case. It lends impetus to the government's case. It is prejudicial to the defendant.

THE COURT: All right, sir.

MR. SCHIFFER: Could we have that for all defendants?

THE COURT: Yes, sir. Now, gentlemen, the Court also proposes to submit to the jury a very simple verdict form. This verdict form lists nothing but the names of the three defendants in the Third Count and a line then for the jury to file in either guilty or not guilty.

Then the lists of three names of the defendants in the Fourth Count then a line for the jury to fill in their verdict.

And the Fifth Count, and a line for the defendants to--, for the jury to fill in their verdict.

If the clerk will make a copy of that verdict form and give it to counsel please, so that they may have a copy of it.

MR. BRANSTETTER: May it please the Court, will we be furnished a copy to look at?

THE COURT: Yes, sir, that is what I'm asking the clerk to do.

MR. BRANSTETTER: I would I think probably that certainly I would object to it being done in this fashion.

I believe the more accurate method or the method certainly would be more preferable at least to Defendant Campbell would be to have a separate piece of paper showing each defendant rather than have them all on one piece of paper as I believe it now stands and I would object to it being submitted unless this form were submitted for each separate defendant or a separate page.

THE COURT: All right.

MR. SILETS: Your Honor, on the form of the indictment that is to go to the jury, may we have excised the signature of the foreman and the title, James F. Neal, special attorney, Department of Justice?

THE COURT: Yes, sir. Yes, sir. The Court will just take a pair of scissors and cut that off.

MR. SILETS: Thank you.

THE COURT: Would you provide the Court with some means?

MR. BRANSTETTER: Also, may it please the Court, since Mr. Andrew H. Mizell is the clerk and was also a witness in this proceeding, we think that probably it would be more fair if that were also taken from the face of the indictment because he was a witness, that is the basis of the request, it lends emphasis I think maybe.

End 46
7 fol.

THE COURT: I don't believe that that would form the basis for a proper objection. That merely shows the date the indictment was filed.

MR. BRANSTETTER: Of course, we would except to the Court's ruling and also I believe previously there was an exception to the indictment as proposed with the excision of Counts One and Two being submitted because it is not the indictment as originally returned by the grand jury.

THE COURT: All right. The Court will file with the Clerk the portion of the indictment cut and removed eliminating the names of the foreman of the grand jury.

MR. HAGGERTY: If Mr. Branstetter didn't--

THE COURT: (Interposing) Just let me get the record straight. If the Clerk will file that as a portion of the previous exhibit or you may file it as the next exhibit in order. What was the indictment?

MR. DALE: 242.

THE COURT: 242 was the form of the indictment to be submitted to the jury?

MR. SAULPAW: Yes.

THE COURT: And Exhibit No. 243 is the signatures which have been cut from the form that is to be delivered to the jury?

MR. SAULPAW: Yes, sir.

(The indictment referred to above was marked Exhibit 242 for identification and received in evidence and the excerpted signatures marked Exhibit 243 for identification only.)

THE COURT: I don't believe that that would form the basis for a proper objection. That merely shows the date the indictment was filed.

MR. BRANSTETTER: Of course, we would except to the Court's ruling and also I believe previously there was an exception to the indictment as proposed with the excision of Counts One and Two being submitted because it is not the indictment as originally returned by the grand jury.

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(The indictment referred to above was marked Exhibit 242 for identification and received in evidence and the excerpted signatures marked Exhibit 243 for identification only.)

THE COURT: All right. Yes, Mr. Haggerty, I will recognize you now.

MR. HAGGERTY: If your Honor please, a reason for objecting to the indictment, in each of the three counts there is the name of the defendants indicted and then there is a reference to the petit juror in the trial of the United States vs. James R. Hoffa and Commercial Carriers, Inc., Criminal Court No. of the United States District Court for the Middle District of Tennessee.

We object to it, that it highlights the fact that the defendant, that James R. Hoffa was a defendant in this case and we think that it places undue stress and prominence on it.

THE COURT: All right.

MR. HAGGERTY: Further we object to the title page, the name of Andrew H. Mizell, the Clerk. Mr. Branstetter discussed it with your Honor but I don't think he made an objection. I make an objection.

THE COURT: All right. Allow those objections to be overruled.

MR. SILETS: May they stand on behalf of all defendants?

THE COURT: Yes, they may stand on behalf of all defendants. All right. May we have the jury return?

MR. BRANSTETTER: May it please the Court, we

didn't see the proposed verdict.

MR. SAULPAW: The machine has to run them off, just a little bit.

THE COURT: Well, I will need this original back but show it to counsel there.

MR. BRANSTETTER: We will be very happy to hand it back.

THE COURT: Have the jury wait just a moment then.

MR. SILETS: Your Honor, after having viewed the original I would like to interpose an objection on behalf of the Defendant Dorfman and suggest to the Court that the proper procedure for this verdict should be a separate verdict as to each defendant and with respect to the Defendant Hoffa a separate verdict as to each count.

End Tk 47
Tk 48 fls.

THE COURT: All right.

MR. HAGGERTY: I join in that objection, may it please the Court on behalf of the Defendant Hoffa.

THE COURT: Submit the form to the government.

MR. SILETS: May I say this, your Honor --, may I say this, your Honor, that in the form as it is now it would lead the jury to infer that all of these defendants are in fact acting together, all three counts do relate together, and I think that by virtue of the Court's charge the Court gave an instruction that the defendants were to be considered separately, individually and each count individually and I think that in order to fulfill that charge we ought to have a separate verdict on each defendant on each count.

THE COURT: I might just make this comment for the record, with regard to the objections of the parties upon the Court charging the theories of the parties, the Court charging the theories of the parties, the Court as provided by law extended to the parties the opportunity of submitting their theories. That opportunity having been extended upon Thursday of last week or Wednesday of last week, the theories were submitted by those who chose to submit theories. And as provided by law, the Court has charged the theories as submitted by parties except to the extent that the government's theory was very substantially reduced by the Court by eliminating rather substantial portions of it as the record

will reflect.

All right, may we have the form of the verdict?

MR. HAGGERTY: Does your Honor care to make a ruling on the balance of the exceptions that were taken to your Honor's charge?

THE COURT: Yes, the Court will overrule the exceptions to the extent that it does not further charge the jury this evening upon the matters excepted to. May we have the jury return?

MR. HAGGERTY: Well, I wish to place on the record an objection to your Honor's ruling.

THE COURT: All right, sir.

MR. SCHIFFER: For all defendants?

THE COURT: Yes, sir.

(At 7:15 o'clock, p.m., the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: Ladies and gentlemen, just a few brief further instructions that the Court will give you at this time. With regard to the Witness Partin as to any testimony of his exercising any constitutional rights not to testify before the grand jury, you may consider that only as it may or may not reflect upon his credibility.

Now for your convenience in returning a verdict I have prepared a verdict form which I believe is completely

self-explanatory. Proceeding by counts, I have listed the name of each defendant alongside of which I have placed a blank which you may indicate whether you find each defendant guilty or not guilty of the offense charged against him.

And I will deliver this verdict form to you. If as you arrive at a verdict in the case, when you arrive at a verdict in the case, if you will fill out the verdict form and the foreman of the grand jury, the foreman of the jury, sign the verdict form when a verdict is reached with regard to each defendant on each count.

You ladies and gentlemen may conduct your deliberations in the manner in which you think proper. I would suggest upon retiring that you select a foreman to preside over your deliberations in order that you may conduct your deliberations in an orderly manner and in order that each juror may have an opportunity to express his or her views and that you do all of that with proper respect for each other and with proper respect for each other's opinions.

End 48
49 fls

You are about to take this case for your ultimate work of judging. Try earnestly with every power that you possess to eliminate from your consideration any feeling of bias or sympathy or prejudice or any improper motive or any feeling that might affect your judgment, other than on the basis solely of the evidence in the case and the instructions of the Court.

Each party on each side in this case is entitled to a fair and just consideration on the basis of the evidence and on the basis of the instructions of the Court.

You will not allow anything in the argument of any attorney or in the trial of the cause that would in any way cause you to have any prejudice against any party or any sympathy for any party that would cause you to do anything other than to try this case solely on the evidence and on the instructions of the Court.

One of the real purposes of the Court's charge is to instill into each of you a resolution to apply your best and your finest faculties to the decision of this case, to call upon you to put aside all sympathy or prejudice or any improper motive or any improper feeling in your search for the truth, to ask you to dedicate yourselves, to search in good faith and with respect for each other's opinion to arrive at a verdict that will express your opinion of where the truth lies in the case, all in accordance with the instructions

that I have given to you, for in any case not only are the parties to the suit on trial but the judicial process itself is on trial.

Remember that our system of justice is itself on trial in every lawsuit. Each time that you apply your best and your finest faculties to ascertaining the truth in accordance with the evidence, and in accordance with the instructions of the Court justice will prevail and justice is the only condition under which freedom can survive.

If you will, step out just a moment, ladies and gentlemen. Do not begin your deliberations yet. Step out just a moment.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right. Is there anything further from any counsel?

MR. BRANSTETTER: May it please the Court, I believe that we entered a joint objection to the verdict form. I would like to raise this further question:

In each instance there is listed "guilty" or "not guilty", both being in parenthesis. I think that this may not fairly represent what the jury is entitled to do. In the event--, I think that it would be--, there should be another designation that or that they cannot agree, I think

it might be compulsive in character to leave it as it now is.

THE COURT: All right, all right.

MR. BRANSTETTER: And I think also that the method of listing that of guilty in the first instance when these gentlemen are presumed to be innocent rather than have guilty listed straight down on the left hand column all the way probably is suggestive, although not intended to be such.

MR. REDDY: Your Honor, insofar as the verdict, it's just two, it's either guilty or not guilty. If they don't agree, all right, then that is a disagreement, but there is no verdict if they can't agree.

THE COURT: All right.

MR. SILETS: Your Honor.

THE COURT: Yes.

MR. SILETS: I'd like to interpose an objection and take exception to the Court's instructions concerning Mr. Partin. I don't think it has gone far enough and I think that the instruction should probably be that concerning his appearance before the Grand Jury that they should consider the fact that he took the Fifth Amendment under a stronger set of circumstances than the Court has charged.

THE COURT: All right.

MR. SILETS: Further I take exceptions to the Court's reference to the fact that justice is on trial here.

I think that the jury should be aware that only these defendants are on trial.

THE COURT: Now, gentlemen--, all right, all right.

MR. HAGGERTY: Getting back, may it please the Court, to this form of verdict, I strongly suggest that under the present form where there is "guilty" first in every instance or "not guilty" that that should be, in fairness that should be, considering the form that you have now, the first choice always is guilty and I say that that strongly is suggestive to a jury that has this document before them.

End 49
50 fol.

that are here involved in the trial. And also a form of the verdict. You may consider your verdict this evening as long as you think proper. I think it is proper that you should consider your verdict for a while, while the charge of the Court is fresh in your mind, but as to how long you desire to deliberate this evening, I am going to leave that up to you ladies and gentlemen. When you desire to retire for the night and return to the hotel, advise the Court of that and you will be excused for the evening. That is provided you don't want to stay too late tonight.

You will, please, take the verdict form, the alternate jurors, Mr. Curbow, Mr. Burrows, Mr. Cramer, and Mr. Bonner, if they will please just remain in their chairs. The regular jury may retire at this time to the jury room and consider of their verdict.

THE COURT: All right. All right, let's have the jury return once more.

(At 7:25 o'clock, p.m., the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: Just a moment, please, ladies and gentlemen. All right, ladies and gentlemen, if you will, please, those members of the regular panel other than alternates may at this time retire to consider of their verdict. I will give to you a copy of the indictment with the three counts that are here involved in the trial. And also a form of the verdict. You may consider your verdict this evening as long as you think proper. I think it is proper that you should consider your verdict for a while, while the charge of the Court is fresh in your mind, but as to how long you desire to deliberate this evening, I am going to leave that up to you ladies and gentlemen. When you desire to retire for the night and return to the hotel, advise the Court of that and you will be excused for the evening. That is provided you don't want to stay too late tonight.

You will, please, take the verdict form, the alternate jurors, Mr. Curbow, Mr. Burrows, Mr. Cramer, and Mr. Bonner, if they will please just remain in their chairs. The regular jury may retire at this time to the jury room and consider of their verdict.

MR. HAGGERTY: One thing, your Honor, may I ask that you hold the jury in abeyance because I want to convey one thing to the Court?

THE COURT: Yes, sir.

MR. HAGGERTY: I don't want to convey it in the presence of the jury.

THE COURT: Well, step out and I assume that the alternates should step out, too, while we take up this matter.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: Now, gentlemen, one thing before the jury does begin its deliberations, the Court is of the opinion that the motion and request to conduct a voir dire of the jury should be overruled, that request having first been filed last Thursday and a motion having been made on it I believe upon Monday of this week and a motion for mistrial based thereon. The Court will make further comments in the record as to the reasons for that at another time, but that motion should be overruled. Yes, Mr. Haggerty.

MR. HAGGERTY: Your Honor, on this verdict form as your Honor has entitled it --

THE COURT: (Interposing) Yes, sir.

MR. HAGGERTY: You have eliminated from the jury the right of their own honest conscientious belief and dis-

cretion. You have demanded in other words by this form, guilty or not guilty. You have excluded those who may not be able to agree with the majority or the majority with the minority. Now that is what you have done in effect, that is what you have in effect done by this form. I respectfully submit that your Honor should in fairness if you are going to use this type of form, that you should include on there, or disagree.

THE COURT: Well, if they disagree there will be no verdict returned.

MR. HAGGERTY: Honest juror certainly has that right to disagree and the right to a conscientious opinion.

THE COURT: All right.

MR. HAGGERTY: Or you will inform the jury when you give them this form that they can disagree.

THE COURT: Well, the Court has given them instructions in that regard, Mr. Haggerty.

MR. HAGGERTY: Well, I didn't hear such an instruction as that, your Honor.

THE COURT: All right. All right, have the alternate jurors return and have the jury --, direct the jury to begin their deliberations.

MR. SILETS: Your Honor, may it be understood that we are all of the same opinion of Mr. Haggerty, this instruction was not given concerning the disagreement.

THE COURT: Yes, sir, the Court very specifically instructed the jurors that they should not give up a conscientious conviction for the purpose of arriving at a unanimous verdict.

(Thereupon, the jury of 12 retired to consider of their verdict at 7:30 o'clock, p.m. The 4 alternates were, thereupon, brought into the courtroom, and in the presence of the 4 alternates, the following proceedings were had, to-wit:)

THE COURT: Gentlemen, Mr. Curbow and Mr. Burrows and Mr. Cramer and Mr. Bonner, the Court wishes to direct a few remarks at this time to each of you gentlemen. As I have stated many times before, gentlemen, the appreciation of the Court, of the parties and everyone for your services in this case is greater than you can possibly imagine. There are no medals that I could give you for such dedicated and essential service. Nor are there any material awards that can be given to you.

End 50
51 fls

Your reward will have to be that, the satisfaction that a citizen of this country must feel when he performs a duty conscientiously, when he performs one of the highest duties of citizenship, and that is to sit upon a jury.

Our freedom and our system of justice depends very largely upon the jury system and I would point out to you that your service has been particularly distinguished since you have sat patiently through a protracted trial and have listened to a large number of witnesses upon the mere possibility that you might ultimately be asked to decide the issues of this lawsuit. However, the length of the trial and the expense of the trial to the various parties had shown the wisdom of the law in providing for alternate jurors as a protection against lost or wasted effort in this respect.

You can, therefore, rest assured that your services were not only deeply appreciated but that they were absolutely necessary.

Now, you will be dismissed shortly to resume your normal role and your normal place in society. It is necessary for me to once again, perhaps for the last time, to give you a few instructions and cautionary words.

First, I would instruct you that prior to a verdict being returned in this case by the jury do not discuss your services on the jury with anyone or allow anyone

to discuss your service with you.

Second, I would advise you that after a verdict has been rendered in this case you may be approached by various persons, members of the press, representatives of the parties of one side or the other endeavoring to discuss such matters as your jury service with you.

You are perfectly at liberty to talk to not to talk to anyone that you please. You are not in any way obligated to discuss your jury service in any respect with anyone or any matter pertaining to your jury service.

You should, and I would suggest to you that you be guided by your mature and your sound discretion in determining any response to any inquiry made of you by anyone. Remember that the integrity of our jury system is sacred and that it should be protected from any unnecessary or any baseless attack.

Any remark or any statement made by you, although considered innocent or possibly harmless by you, maybe misconstrued and may result in further proceedings, so I caution you to give deliberate and sober reflection upon any statement that you are asked to make regarding your service in this case.

I would likewise advise you that if anyone should attempt to place any pressure or any improper influence of any kind upon you or in any manner treat you

in a manner which you feel is not proper by reason of your service on this jury that you not hesitate to make that known to the Court promptly and that the full protection and power of this Court will certainly be made available to you.

Now, I thank you, gentlemen, as I have indicated, from the very bottom of my heart for the service that you have rendered. If there are further proceedings in this case and you desire to be a spectator at those proceedings your seats will be reserved there in the jury box. No one else will be permitted to sit in those seats.

If you desire to return at any time you are welcome to return. You are welcome to witness any further proceedings in the case and, as I say, your seats will always be reserved for you.

At this time you gentlemen may each be excused.

(Thereupon, the four alternates were excused.)

THE COURT: Now, then, gentlemen, with regard to the motion upon surveillance, we will take up those respective motions at nine o'clock tomorrow morning, assuming that those motions are for consideration by the Court at that time.

There has been filed a motion by Mr. Silets, supported by an affidavit of Mr. Osborn, and further counter-affidavit by Mr. Hooker. ..

Is there any desire, is there any desire of the

parties to be heard any further on that motion?

MR. SILETS: No, your Honor.

THE COURT: May the Court decide that motion on the basis of the record?

MR. BROWN: I believe that is the one we filed, too, your Honor.

THE COURT: All right. Whatever defendant or defendants.

MR. BROWN: That is agreeable.

THE COURT: Well, the Court is of the opinion and the Court finds that the facts are stated in Mr. Hooker's affidavit and that the motion should be overruled. Now, then--

MR. SILETS: (Interposing) Your Honor, may an exception to that ruling be noted?

THE COURT: Yes, sir.

MR. BROWN: For all defendants who filed?

THE COURT: Yes, sir.

MR. BERKE: May I inquire of Mr. Neal, if your Honor please, if he will have the agents available for us at nine o'clock in the morning? That was part of the agreement.

THE COURT: Yes, they should be available.

MR. NEAL: Well, your Honor--

THE COURT: (Interposing) Enough of them to

start the hearing.

MR. NEAL: Your Honor knows how I have tried to be cooperative on this motion. It's 20 minutes until 8 now.

THE COURT: I assume some of them could be available, could they not?

MR. NEAL: Oh, yes, whatever is available from here. I think there is a man from Knoxville, certainly there will be five or six available. Does your Honor want to determine--we wonder if there is any great necessity of having all of these 30 agents here? Mr. Colson, Mr. Clyde Colson, is in the hospital, assistant to the director. Would it be possible for the Court on this matter to hold the hearing on the agents that will be available tomorrow? We understand those agents will be available to testify fully with respect to this matter and then for the Court to determine whether it will be necessary to bring, for example, one of the men who has been subpoenaed is the agent in charge of the Louisville, Kentucky, Office of the Federal Bureau of Investigation. I understand that he knows nothing about the matter, yet he has been subpoenaed.

End Tk 51
Tk 52 fls.

MR. NEAL: I understand that Mr. Colson, of course, knows nothing about the matter, yet he has been subpoenaed. We're not objecting at all to a full and complete hearing on this matter. There is some great inconvenience and a matter of, some matter of security involved in having 30 agents--

THE COURT: (Interposing) It is obvious we cannot hear all 28 of them at the same time. We will have to take them up in order. We will have to proceed as necessary on them. If it is necessary to have some time to bring the others--

MR. NEAL: Very well, Your Honor.

MR. SILETS: Your Honor, may I make a suggestion that the first agents we produce are the agents in charge because they are the only ones we requested to bring records. The other agents were subpoenaed. The only things the agent in charge were asked to bring records and travel authorizations to start with.

MR. NEAL: Your Honor, we certainly are not going--, we are going to move quash subpoenaes on all of these records. I don't know whether Your Honor has seen the subpoena duces tecum or not but what it means is opening up the files of the Federal Bureau of Investigation around the country to the perusal and scratching of the defendants.

MR. SILETS: Very limited subpoena, Your Honor.

MR. NEAL: We will have the agents here tomorrow, Your Honor, to continue.

MR. SILETS: May I just be heard a moment, Your Honor?

THE COURT: Yes,s ir.

MR. SILETS: They filed an affidavit of 25 different individuals. Now we have asked exclusively for the travel authorization of all people that were down here for surveillance and we have also asked for their daily reports pertaining to their surveillance. There isn't anything else that has been asked. It is a very limited subpoena.

THE COURT: All right. Now, then, gentlemen, there was a motion made also supported by a transcript of the interview with the witness Shobe. May we take that matter up immediately following the matter of surveillance?

MR. SCHIFFER: Transcript of the witness Shobe, Your Honor?

THE COURT: There was a motion made supported by a transcript of an interview with the witness Shobe. At the time the motion was made the Court indicated at that time that it would reserve a hearing upon that until after the case that it would not interrupt the trial of the case to hear the motion.

MR. SCHIFFER: We should like that after the surveillance then, Your Honor.

THE COURT: Take that up after the surveillance?

MR. SCHIFFER: Yes, sir.

THE COURT: Gentlemen, with regard to the request made by the defendants for a voir dire of a juror, as stated in the record at Page 7838 of the transcript of these proceedings, which motion has heretofore just been overruled a few moments ago, the Court is of the opinion that the request is and was without merit and should be denied for various reasons, including the circumstances under which the incident arose.

One defense counsel, Mr. Schiffer, arose to address the Court at the time in a very loud argument unquestionably the loudest argument that the Court had heard in this case. At the same time another attorney for the defense privately left the courtroom and went to the private area where the jury is kept allegedly to see if the argument was coming through to the jury.

Now, it is an odd procedure, to say the least, where if a defense counsel is thought by another defense counsel to be arguing too loudly that they would resort to this circuituous method of sending another attorney privately to the jury room rather than merely suggesting that defense counsel arguing tone down his remarks.

A procedure that the Court has suggested a number of times throughout these proceedings. The defendants cannot

create such a situation as this and then seek to take advantage of their own actions. Let's be--

MR. HAGGERTY: (Interposing) May I reply to Your Honor on that?

THE COURT: Yes, sir, you may reply.

MR. HAGGERTY: I point out to Your Honor regardless and I claim there was nothing unlawful--

THE COURT: (Interposing) Mr. Haggerty, I believe it would be best if you will just file a written reply if you desire to reply to it. File any written reply that you wish.

MR. HAGGERTY: I shall, Your Honor.

THE COURT: All right, sir. If there is nothing further let's be in recess until we hear further from the jury.

MR. SILETS: Your Honor, may I make inquiry?

THE COURT: Yes, sir.

MR. SILETS: If we return to our hotel, would the marshal be good enough to advise us if there is some reason for us to come back if the jury has reached a decision rather than wait out in the lobby here?

THE COURT: Yes, let me see what the problem might be in that respect. How can we get word to you, Mr. Silets?

MR. SILETS: I think if the marshal would call

room 906 at the Patten Hotel that we would all be able--

THE COURT: (Interposing) Can you be here promptly?

MR. SILETS: Within ten minutes.

THE COURT: All right. All right.

MR. BROWN: Your Honor, before you adjourn, I noticed one mistake in the transcript where Mr. Hooker was arguing this afternoon that hadn't come to our attention before that might be corrected on Page 6348.

THE COURT: Can't we just take that up with the reporter?

MR. BROWN: All right.

MR. BRANSTETTER: May it please the Court, would it be appropriate to inquire as to what kind and order and time i n order that we might try to fit in some sort of schedule? Does the Court have in mind a particular time?

THE COURT: I have in mind no time. I don't think that we should deliberate this evening beyond--, I want to leave it to the jury but I don't think that we ought to go beyond eleven o'clock anyhow this evening. All right, if nothing further let's be in recess.

(Thereupon, at 7:47 o'clock p. m., court was in recess.)

END 52.
53 fol.

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	NO. 11,989
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: March 5, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXXV

PAGES 8979 TO 9272

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
247	Spindel subpoena issued by the government	9050	
248	Envelope (of previously sealed exhibit)	9075	
249	29 pages of previously sealed exhibit	9076	
250	Spindel affidavit	9076	

TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
251	Photograph	9140	
252	Photograph	9141	
253	Affidavit of Mr. Bufalino and photographs attached	9217	
254	Shobe recording transcripts	9266	

THIRTY-FOURTH DAY OF TRIAL

9:00 O'Clock A. M.
March 5, 1964

(Thereupon, pursuant to adjourment from March 4, 1964, court was in session.)

THE COURT: All right. Gentlemen, are we ready to proceed?

MR. HOOKER: Yes, Your Honor. Mr. Neal will be delayed for a minute or two, if Your Honor please, but we will go right ahead without him.

I have a list of the agents that are here, 17, including Mr. Sheets who testified yesterday.

MR. SILETS: Good morning, Your Honor.

THE COURT: Mr. Silets.

MR. SILETS: We will call the first one on the list, Mr. Barrett.

MARSHAL SERTEL: We are attempting to reach him, Your Honor, I think he is downstairs and on his way up.

MR. HOOKER: Mr. Sheets, did you speak to him?

MR. SHEETS: I spoke to him, he was on the second floor.

MR. HOOKER: Mr. Ingram gave me the list this morning and said these gentlemen were here.

MR. SILETS: Mr. Barrett is right on top so--

MR. HOOKER: (Interposing) He is on the wrong

floor.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. BARRETT: I do.

MR. DALE: Have a seat.

CARL N. BARRETT,

a witness called at the instance of the defendant Campbell, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q State your full name and spell your last name, please.

A Carl N. Barrett. (Spelling) B-a-r-r-e-t-t.

Q What is your occupation, Mr. Barrett?

A I am a special agent with the FBI.

Q And where is your post of duty?

A Knoxville, Tennessee.

Q And what are your duties in general?

A Well, in general investigative. I am a supervisor in the Knoxville office.

Q That's what I meant. You are a supervisor, are you?

A On a relief basis.
Q And you know Mr. Ingram?
A Yes, sir.
Q Is he your immediate supervisor?
A Yes, sir.
Q Mr. Barrett, within the last two months have you been assigned to Chattanooga, Tennessee?
A Part of that time, yes, sir.
Q And when was your first date of assignment here?
A January the 16th.
Q And what was the nature of your assignment?
A To conduct and participate in a surveillance.
Q And from whom did you receive your instructions?
A Mr. Ingram.
Q Now, were you advised as to whom you were to surveil?
A Yes, sir.
Q Who?
A Mr. William A. Test on the first occasion, the first assignment.
Q You mean you had more than one assignment?
A On that date, no, sir.
Q How many assignments did you have concerning the persons or parties involved in this case here in Chattanooga?
A Mr. William Test, Mr. George Hicks, Mr. Cleveland,

Mr. Spindel, Mr. O'Brien.

Q Now, you say you received an assignment of surveillance but the first assignment related exclusively to Mr. Test, is that your testimony?

A My testimony was in answer to the first day I came down here, sir, on the 16th, and that was Mr. William A. Test, yes, sir.

Q Well, my inquiry of you, sir, is how many assignments did you receive with respect to surveillance in the Chattanooga area within the last two months.

A I just answered.

Q Just one, as to Mr. Test?

A No, not just the one day.

Q Maybe--we will start all over again.

A All right, sir.

Q You received instructions to come to Chattanooga from Mr. Ingram?

A That is correct.

Q And that was with respect to a surveillance.

A That is correct.

Q Now, was that surveillance to be of those five individuals?

A At that specific time when that assignment was made that surveillance was on Mr. Test.

Q Alone?

A At that day, yes.

Q When you were assigned to come to Chattanooga were you assigned only for one day?

A No, sir.

Q All right. What was the length of your assignment?

A The first period that I was here was January the 16th through January the 20th. I was then--, I was then inside of the office here, our office, the FBI office, the remainder of the following week.

End 1
Tk 2 fol.

Q Do you mean the week from the 20th through the 27th?

A Yes, sir.

Q Well, maybe I am misunderstanding your testimony. From the 16th to the 20th you were out on the street?

A That's correct.

Q And the 20th to the 27th you were in the office?

A Yes, sir.

Q Now, my question, however, sir, was, was your assignment with respect to any length of time? Were you given a specific length of time to be here?

A No, sir.

Q Did your assignment conclude on the 27th?

A No, sir.

Q Did you remain in Chattanooga?

A I went back to Knoxville and returned on the following week.

Q What time would that have been?

A I can use a calendar if I had one, sir.

Q Do you have one available?

A No, I don't have one.

Q Let's see, the 27th would have been a Sunday. The 1st of February would have been the following Friday. The next Monday would have been the 4th of February?

A Yes, I was here that week.

Q The week, ends on the 4th of February?
A I was here the 3rd, 4th, 5th, and 6th of February, yes, sir.
Q In other words, you left Chattanooga on the 27th?
A What day was that, sir?
Q That was a Sunday.
A No, I left Chattanooga two days before that. Spent the weekend in Knoxville and came back the following Monday.
Q Then you would have left on Friday,the 25th and returned on Monday, the 28th?
A I believe that's correct.
Q So you would have been continuously in Chattanooga from the 16th through the 28th at this point except for the weekend back in Knoxville?
A I believe that's correct.
Q And you remained in Chattanooga thereafter?
A No, sir.
Q How long did you stay in Chattanooga?
A The week that we just discussed the first week of March or February, rather.
Q The first week in February?
A Third, 4th, 5th and 6th.
Q So you stayed from the 28th then through the 8th or 9th of February?

Q The week, ends on the 4th of February?

A I was here the 3rd, 4th, 5th, and 6th of February, yes, sir.

Q In other words, you left Chattanooga on the 27th?

A What day was that, sir?

Q That was a Sunday.

A No, I left Chattanooga two days before that. Spent the weekend in Knoxville and came back the following Monday.

Q Then you would have left on Friday,the 25th and returned on Monday, the 28th?

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Q So you would have been continuously in Chattanooga from the 16th through the 28th at this point except for the weekend back in Knoxville?

A I believe that's correct.

Q And you remained in Chattanooga thereafter?

A No, sir.

Q How long did you stay in Chattanooga?

A The week that we just discussed the first week of March or February, rather.

Q The first week in February?

A Third, 4th, 5th and 6th.

Q So you stayed from the 28th then through the 8th or 9th of February?

A Not the 8th or 9th, no, sir. I went back to Knoxville on the 6th.

Q When did you return and what day was it you returned?

A From Knoxville to here?

Q No. From here back to Knoxville?

A On the last Friday of January.

Q That would have been the 1st of February?

A That would be correct.

Q And then you spent the weekend in Knoxville again?

A That's correct.

Q And you returned to Chattanooga--

A (Interposing) On the 3rd.

Q And how long did you stay on that next trip?

A Through the 6th.

Q Which is a Wednesday?

A Sixth is a Wednesday?

Q Yes.

A You have the calendar.

Q Yes, it is, sir.

A No, I believe the 6th is, I believe, Monday was the 3rd, wasn't it?

Q No. Monday was the 4th, sir, Sunday was the 3rd.

A Of February?

Q I beg your pardon. I am looking at the wrong

calendar. I'm a year behind you. I am sorry, sir. Yes, Monday is the 3rd.

A Yes, sir.

Q And you stayed through the 6th, which is a Thursday?

A Yes, sir.

Q Then you returned to Knoxville?

A On a Friday morning.

Q That would be the 7th?

A Right.

Q Now, did you return again to Chattanooga?

A No, sir, not until yesterday on subpoena.

Q So then if I understand your testimony, from the 16th of January through the morning of the 7th of February, except for two weekends, you were in Chattanooga?

A Yes, sir.

Q Now, all that time you were in Chattanooga then, sir, was that pursuant to your instructions to conduct the surveillance?

A No, sir. The last week of January I was assisting the agents regularly assigned to this resident agency in their normal work. And the work that I did was not related in any way to this case.

Q Mr. Barrett, the assignment of surveillance that brought you here on the 16th, brought other agents on or about

that date and following, did it not?

A Yes, sir.

Q Now, when you state here the week starting Monday, the 27th, were there at the same time other agents who had been brought for the purpose of surveillance still here?

A During that week?

Q Yes, sir.

A No, sir.

Q You were the only agent remaining?

A Another agent from Knoxville was here with myself assisting the agent assigned on their regular case assignments.

Q Who was he?

A John Paul Slayden.

Q Is he a supervisor also?

A No, sir.

Q Sir?

A No, sir.

Q Was he under your supervision?

A The only time any agents in our office is under my supervision is when Mr. Ingram is away from his desk or his assistant agent in charge is away from his desk.

Q No, sir, I mean was Mr. Slate under your supervision while you were in Chattanooga?

A No, sir, I was down here in an investigative capacity the week you are referring to simply aiding and

helping the agents catch their regularly assigned work.

Q What was Mr. Slate's duty?

A Mister who?

Q Slate? Isn't that who you just mentioned?

A No, sir. (Spelling) S-l-a-y-d-e-n, Slayden.

Q Sorry. What were Mr. Slayden's duties when he was here during this period?

A The last week of January now is that the period you are referring to?

Q Yes, sir. Yes, sir.

A A number of agents in the Chattanooga office had different things that they needed some help on and what he did specifically, sir, I wouldn't attempt to recall.

End Tk 2
Tk 3 fls.

Q You have no personal knowledge?

A No, sir.

Q No official knowledge?

A Not specifically, only that on --

Q (Interposing) While you were -- what do you mean "not specifically"? Do you have any knowledge?

A I meant specific knowledge, since you asked me what his assignments were, I have general knowledge that he assisted a number of agents on a number of investigative matters.

Q Other than you and Mr. Slayden, however, there were no other agents other than the regular Chattanooga agents, is that right?

A That is correct.

Q Now, Mr. Barrett, the surveillance that was conducted, were reports made of it by you or anybody working under your supervision?

A Each agent on a surveillance executes what we refer to as a surveillance log, sir, and that reflects what activity pertaining to that surveillance that he observed.

Q Well, can you describe a surveillance log, what is it, a notebook or a --

A (Interposing) A plain sheet of ruled paper beginning with the name of the party that is the object of their surveillance, the date and the place, and then a time

entry and what was observed at that time entry.

Q Where does he keep that, in his possession?

A The agent?

Q Yes.

A He keeps and executes it as the exigencies allow during his period of activity.

Q In other words, if he is actually in the field observing John Doe and he has a free moment, he will write what he has observed?

A That is correct.

Q What does the agent do with that surveillance log after he has made the entry?

A He puts it in the file of the case under investigation, whatever it may be.

Q And in this particular case, and in this particular surveillance, certain agents were working under your supervision, is that right?

A Part of that time.

Q Yes, sir. And while working under your supervision were these surveillance logs turned in to you?

A Yes, sir.

Q What, if anything, did you do with these surveillance logs?

A Prepared them as we normally do, placed them in an envelope that we refer to as an exhibit envelope, which

goes into the file.

Q Well, when you say you "prepared them," can you tell the Court what you mean?

A Folded it up, placed it in the envelope and identified the envelope.

Q You wouldn't do anything to the agent's actual handwriting?

A No, sir.

Q And so forth?

A No, sir.

Q You placed that into an envelope. Did you seal the envelope?

A No, it isn't sealed.

Q It just goes into a file?

A That is correct.

Q Now, when you say the "file," what kind of a file do you mean, the file for the subject?

A The file of the case.

Q Of the case?

A Yes.

Q Now, who maintained that file?

A Our chief clerk's office in headquarters office, the file always stays there.

Q Where, in Knoxville?

A Yes.

Q And that would be under the supervision of Mr. Ingram?

A Yes, sir.

Q And were any copies made of these handwritten surveillance logs?

A No, sir.

Q Now, how often would you send these surveillance logs to Mr. Ingram?

A No pattern, no requirement, mail regularly goes from this resident agency office to headquarters office, sometimes two or three times a day, sometimes only once, sir.

Q Well, in any event, when the surveillance is completed all of the surveillance logs would by that time have been sent to the clerk's office of the Knoxville office of the FBI, would they not?

A Most probably.

Q Now, particularly with this surveillance that we are discussing now, and I am inquiring of you at this date, in other words, by the first week of March all such surveillance logs would be on file in Knoxville?

A Not necessarily, sir.

Q Where would they be if they --

A (Interposing) Oh, they could be here in our office at Chattanooga.

Q Do you know whether there are any such surveillance

logs on file here in Chattanooga?

A I know that the surveillance logs of this case have been turned over to the Judge.

Q You mean the handwriting surveillance logs?

A Yes, that is the understanding that I have, sir.

Q Now, what about the daily summary reports, aren't they made during the course of a surveillance?

A I don't believe I understand you, sir.

Q At the end of a day, does an agent prepare a summary report of his activities?

A A summary report?

Q Yes.

A We have no such report and no such terminology.

Q Well, perhaps it is my inadequacy, Mr. Barrett. Do you understand what I mean, though, at the conclusion of a day the agent, or a week, or at the conclusion of his precise assigned activities, he prepares a report of his activities?

A I presume you are referring to what we execute as a daily report.

Q As a what, sir?

A Daily report.

Q Daily report?

A All right, sir. In such an assignment as this the daily report would reflect nothing because the surveillance

log of the agent, if that is what he was doing, would reflect his activities, so the daily report would simply indicate the time he began work and the time he ceased work.

Q And that is all?

A And his signature.

Q Nothing else?

A No.

Q No contents of what he did?

A No, sir.

Q Well, would the surveillance log be attached to the daily report?

A No, sir.

Q Was there a set method by which they can be coordinated?

A No, sir -- yes, sir, they can be compared at any time because they are both official records and are maintained permanently.

Q Now, in terms of a surveillance, and particularly the surveillance we have under review here, were you given any particular instructions?

A At what time, sir?

Q Well, when your assignment was given to you?

A Yes, sir.

Q Will you relate them?

A Specifically we were instructed when the sur-

veillance was ordered by Mr. Ingram that it was for the sole purpose of surveilling the parties that you asked me to name and which I named a moment ago and no others and that under no circumstances were we to engage in the surveillance of the defendants, their attorneys, or witnesses.

Q Again those named parties were -- just so I can list them down?

A I thought you listed them a moment ago.

Q No, I am not as good as the court reporter. You said the sole purpose was of surveilling the named parties. Who were they?

A Mr. Hicks, Mr. Test, a Mr. Cleveland, a Mr. O'Brien, a Mr. Spindel.

End 3
4 fls

Q All right, sir. And this assignment was given to you and before the time you came on January 16th?

A Not naming those parties, no, sir.

Q Well--

A (Interposing) We're putting questions together, at least I feel that we are.

Q Sir?

A My general instructions were without naming any parties and then you asked me to name them.

Q Your general instructions were without naming any parties?

A That there was under no circumstances to be a surveillance of the defendants or their attorneys.

Q Yes, but then you were assigned to conduct a specific surveillance your testimony is.

A Yes. Right.

Q And that assignment was given to you before you came here on January 16th? That is your testimony?

A That's correct. Yes, sir.

Q Now, in the course of a surveillance and in the course of making the entries in a surveillance log, is it the--, what is the custom of the agents and particularly in this surveillance here as to what is recorded in terms of what activity is seen or what actions are done by the agent? Do you understand my question? What is the essence of what

is recorded in the surveillance log?

A The activity of the party under surveillance that might have a bearing on what the objective of the surveillance was set up for.

Q Well, it is customary, is it not, when conducting a surveillance to report the movements of the individual?

A That is true.

Q And where he goes and the times he goes there.

A In general terms, yes, sir.

Q And it is also customary is it not to report the activities of the individual and the persons he is with?

A In general terms.

Q Now, did the surveillance, was this conducted according to ordinary practices and regular course of practice of the FBI?

A Well, now, you refer to this surveillance and this--

Q (Interposing) The surveillance of the named individuals.

A Well, they varied. There was a different surveillance on different ones.

Q Do you mean the kind of observation was different?

A Yes, I do.

Q Well, which ones were which and would you describe them?

A Which ones do you want me to describe, sir?
Q Well, there are only five people.
A That's correct.
Q Start with the first, start with Mr. Hicks.
THE COURT: Gentlemen, again, can we not get down to the defendants, their attorneys or witnesses in the case?
MR. SILETS: Yes, that is what I'm trying to do. It is fairly obvious that the surveillance that the government conducted was according to their theory exclusively as to these five individuals. Now he has said that there were different kinds of surveillances and it is also uncontradicted that some of the defendants and some of their counsel were observed at certain times. Now, I'm trying to ascertain when this happened and what was the method for the surveillance.
THE COURT: Let's get to that then rather than going through surveillance of persons that are not material to the issues here.
BY MR. SILETS:
Q Well, let me put it this way, if I can and stay within the order of the Court, Mr. Hicks, Mr. Cleveland, Mr. O'Brien, and Mr. Test, were at the time of the surveillance of each of those individuals known to be often in the presence of the Defendant Hoffa, isn't that true?
A I don't know that that is true, sir.

Q Do you mean from your official knowledge as well as your personal knowledge you had no understanding that Hoffa was often in the presence of those individuals?

A No, I had no understanding to that effect, sir.

Q Well, were you aware that these individuals were associates of Mr. Hoffa?

A I was aware that these individuals were the first two, Mr. Test and Mr. Hicks, were the former and present head of Local Teamsters in Chattanooga.

Q Were you aware that Mr. Cleveland was very often in the presence of the Defendant Campbell and often in the presence of the Defendant Parks?

A Not until I was inside our office and overhearing radio traffic that Mr. Cleveland was observed in the party of the individuals you mentioned going to and from the Federal Building. I myself until this moment have never seen Mr. Cleveland if he is here.

Q You don't see him in the courtroom?

A No, sir.

Q I referred to Mr. Campbell.

A Cleveland is the name you mentioned, yes, sir.

Q Then the first time that you knew that Cleveland was in the presence of these two defendants was when you heard radio communications about the fact that he was as you referred, radio traffic, about the fact that he was in

their presence?

A Observed walking along the street in front of the Federal Building, yes, sir.

Q Now, was a record made of that communication indicating that Parks or Campbell were in the presence of Cleveland?

A I made no record of it, sir.

Q Do you know if any record was made? When I say do you know me, I mean either from your own personal knowledge or your official knowledge? That is including hearsay.

A Specifically, no.

Q Well, when you say specifically, can you tell the Court what you mean by specifically?

A I mean that I can't answer your question truthfully because I don't know whether the agent who made the remark that he was observed walking in front of this building entered that fact on his surveillance log.

Q Do you recall the date that that occurred?

A No, sir. I feel that it occurred on more than one day.

Q On more than one day?

A Yes, sir.

Q Now, to your best recollection how many times did that occur?

A I have no idea, sir.

Q But you feel it was on more than one occasion?

A Oh, yes. I do, yes.

Q Now, getting back to the individuals being surveilled, Mr. O'Brien was known by you and others working under your supervision to be a close associate of Mr. Hoffa's?

A No,sir.

Q Well let me ask it this way, Mr. Barrett, before you commenced surveillance of a particular individual aren't you furnished a background on the individual so you know his habits, what he looks like,and so forth?

A Generally speaking, yes, sir.

Q Well, in this situation were these four individuals, was that not also the case?

A Perhaps at the last moment you mentioned a specific individual, Mr. O'Brien.

Q Well, yes.

A Well, I will answer regarding that if that will give you my position.

Q Let's start with Mr. O'Brien, weren't you given some background information on Mr. O'Brien?

A I had never heard of Mr. O'Brien myself until I was advised the day of his arrival at the airport and that cars were surveilling him from the airport to the hotel.

Q But Mr. Barrett, isn't it true that there was an assignment of surveillance of Mr. O'Brien before he ever arrived?

A To my knowledge the first I knew of his impending arrival or that he was going to come to Chattanooga was after he had actually arrived at the airport.

End 4
Tk 5 fol

Q Now, sir, I know that you are making a distinction about your own personal knowledge but I want to include in your knowledge your official knowledge.

A No official knowledge that Mr. O'Brien was coming to Chattanooga or that he was under surveillance before he came to Chattanooga and I have--

Q (Interposing) You mean the decision was made to surveil Mr. O'Brien at the time he arrived at the airport?

A I didn't say that, sir. I said I knew about it for the first time after he arrived.

Q All right. But there was a decision at some time made to surveil Mr. O'Brien before his arrival at the airport?

A I don't know when the decision was made, sir, I haven't discussed it, I wasn't advised.

Q Now, the agents that picked up O'Brien at the airport were under your supervision, were they not?

A No, sir, not at that moment.

Q Under whose supervision were they?

A Well, all of us are under Mr. Ingram's supervision, sir. On that particular day I recall I didn't come to work until late in the morning and the questions that you have asked me apparently occurred before I arrived that morning.

Q What time did you arrive?

A I don't recall specifically.

Q Well, what do you mean by "late in the morning,"

sir?

A Ten-thirty or eleven o'clock.

Q Well, would it interest you to know that the purported surveillance of Mr. O'Brien started at 11:04 A.M.? You were in the office before that, weren't you?

A I believe I was, yes, sir.

Q All right.

A But I am not certain about that.

Q In general it is the custom of the FBI to submit to an agent some background information on any person that they intend to surveil, isn't that true?

A Certainly, sir.

Q All right. Now, to your knowledge, you don't know if that custom in practice of the FBI was deviated from with respect to this particular surveillance?

A Well, are you still referring to Mr. O'Brien, sir?

Q No, I am talking about all of the individuals you have named. As far as you know there has been no deviation, has there?

A As far as I know any agents assigned to a surveillance of any of those individuals would know a brief background about him, yes, sir.

Q Now--

A (Interposing) At least know--

Q (Interposing) Sir, you, yourself, were surveilling

Mr. Hicks, Mr. Test and at one time Mr. Spindel?

A I personally never surveilled Mr. Hicks.

Q You did not?

A I did not.

Q Maybe I misunderstood your affidavit.

A I coordinated the surveillance of the agents on assignment.

Q All right. You, in your affidavit, you said, Paragraph 2, "That it was part of my duties to conduct personal surveillances and observations on the following and none others: George E. Hicks, William A. Test and Bernard Spindel."?

A Yes, sir.

Q Is your affidavit inaccurate?

A It is not inaccurate, sir.

Q Then you did conduct a personal surveillance of those three individuals?

A Well, do you refer to a personal surveillance as an observation?

Q Sir, I am only re-reading your affidavit.

A Well, I am asking you.

Q Your affidavit says, "That it was part of my duties to conduct personal surveillances and observations on the following and none others: George E. Hicks, William A. Test and Bernard Spindel."

Now, I assume that you know what you meant by "personal surveillance."

A Yes, sir, I do.

Q All right. You did, in fact, conduct a personal surveillance of Mr. Hicks?

A I did not personally observe Mr. Hicks was my answer, sir.

Q My question, sir, was not that. My question, sir: Did you conduct personal surveillances and observations of Mr. Hicks?

A Yes, sir. And you asked me what I knew about what I said in a personal surveillance and I answered you, sir.

Q All right. Do you want to explain? Would you tell the Court what you meant by personal surveillance?

A And you are referring to Mr. Hicks now, aren't you, sir?

Q Yes,

A All right, sir. I was in our office and in charge of the cars that were on the street conducting the surveillance. I was responsible for their maneuver ability, their assignment, the shift change and the mechanics of going from early in the morning until late at night and in that capacity I communicated with them, I knew from their communications to me where they were at a certain time, where Mr. Hicks was at a

certain time.

Q All right, sir. Now, as to Mr. Test, though, you, yourself, actually observed him, is that right?

A Yes, sir.

Q Now, did you ever see Mr. Test in the presence of any of these defendants?

A At a distance.

Q Well, which defendant did you see?

A Mr. Hoffa.

Q Did you see any of the counsel?

A No, sir, none that I could recognize.

Q Now, where did you see Mr. Hoffa?

A When he arrived in Chattanooga, the first trip he made here on a Friday of the first week of this surveillance.

Q Now, were you alone or were you with somebody?

A I was with someone.

Q Who were you with?

A Special Agent William Cole.

Q Were you assigned to a vehicle?

A I was.

Q What was the vehicle number?

A I don't recall, sir.

Q Were you in radio communication with the office on the second floor?

A Yes, sir, we always are.

Q And in that radio communication did you report the event that occurred at the airport?

A What event are you referring to, sir?

Q Well, I didn't ask you about any specific event. You arrived at the airport on an assignment?

A I was not at the airport, sir. I didn't state that.

Q Well, I may have misunderstood you. I thought you said that you observed Mr. Hoffa and Mr. Test at the airport?

A I did not say that, sir.

Q Where did you observe them?

A I stated that I observed Mr. Test at a distance in the vehicle with Mr. Hoffa on the day of his arrival at the airport and when I observed him was the trip from the airport to the downtown area.

Q Oh, in other words, you were observing the vehicle as it approached downtown Chattanooga?

A I was parked in a shopping center when the vehicle drove by.

Q Well, is that a shopping center between the airport and downtown Chattanooga?

A Yes, sir, it is.

Q And your observation was that fletting moment when the car passed?

A (Witness moves head up and down.)

Q Now, were you there by chance or by design?

A Oh, I was there by design.

Q All right, sir. At that time, that few hours or that half hour, whatever the time is it takes to get from the airport to downtown Chattanooga, were there other cars similarly stationed on the route?

A I can recall only one other car from personal memory at this moment that I can remember exchanging conversations with.

Q Who was in that car?

A I can't recall that.

Q That would have been also two agents in a car?

A Yes, sir.

Q Now, at that time were you supervising the surveillance?

A No, sir.

Q Who was?

A No one specifically, sir.

Q Well, somebody must have been coordinating the surveillance.

A Well, there was no coordination required at that time. We had only two or three cars on assignment at that time and the interchange of communications between them took care of itself.

Q Well, to the best of your recollection, can you tell the Court where the second, the other vehicle--well, first of all, there was another vehicle somewhere between the vehicle and downtown Chattanooga in addition to yours?

A On this specific occasion?

Q Yes.

A Yes, sir.

Q We will restrict ourselves to this occasion.

A That's correct, yes, sir.

End Tk 5
Tk 6 fls.

Q And then there were agents at the airport as well?

A I don't recall. I do believe there was a car at the airport that had followed Mr. Test to the airport.

Q And observed him at the airport. I think we've had either an affidavit or testimony to that effect.

A Yes.

Q So in total as far as you recall there were then three vehicles observing Mr. Test and Mr. Hoffa?

A They were not observing Mr. Hoffa so far as I was concerned, sir.

Q Well, I rather, the fact is, that the vehicles observed Mr. Test's vehicle and Mr. Test and at least in your situation you also observed Mr. Hoffa?

A Not to recognize Mr. Hoffa. I was advised that that was the vehicle Mr. Hoffa was traveling in after he arrived at the airport and came downtown.

Q I see. How were you advised that Mr. Hoffa was traveling in this vehicle?

A By the vehicle that you just referred to that was at the airport who had followed Mr. Test to the airport.

Q Yes, sir. Is it fair then to say that the agents at the airport had by radio communication advised that Mr. Hoffa was in the vehicle and as a result you knew that Mr. Hoffa was riding in Mr. Test's car? I mean that is --

A (Interposing) Well, as I recall he wasn't in Mr. Test's car. He left his car at the airport and rode in Mr. Hoffa's vehicle, as I recall.

Q I see.

A Or in another vehicle.

Q But you obtained that information by way of radio communication?

A Yes, I did.

Q And then if I can summarize it without misstating you, sir, you received radio communication that Mr. Hoffa's car was proceeding from the airport to downtown Chattanooga and then that Mr. Test was in the car and Mr. Hoffa was in the car?

A And other parties.

Q Well, but I have not misstated your testimony?

A Yes, sir.

Q I have not misstated it? I mean --

A (Interposing) No, that is my memory of the situation, yes, sir.

Q Do you have any knowledge or memory as to who else was in the vehicle, who was driving it, for example?

A No, sir.

Q Now when the vehicle arrived in Chattanooga, well, let me put it this way, when the vehicle passed your car, what did you do? What did your car, you and Mr. Cole?

A Nothing.
Q Sir?
A Nothing.
Q Well, did you stay at the shopping center?
A Yes. I didn't come downtown that day at all until late in the evening, very late that night.
Q Well, it is true that you were at the shopping center on official business?
A Oh, yes, sir.
Q And that that official business was the business of surveillance?
A Yes, sir.
Q Were there any other vehicles following Mr. Hoffa?
A To my knowledge, no, sir.
Q You only saw the one vehicle then?
A The one vehicle? One question follows another, sir, and I don't follow you.
Q One vehicle with Mr. Hoffa and Mr. Test, that is the only one you saw?
A That is the only time I saw Mr. Test and Mr. Hoffa together and that was as it passed, yes, sir.
Q Now while you were or prior to the time that you were going to conduct the surveillance of Mr. Test, were you furnished pictures?

A No, sir.

Q Well, how were you able to recognize Mr. Test?

A We knew where he lived. We knew which vehicle he drove, and we had a good description of him. And as I recall there was a newspaper clipping with the photograph of Mr. Test of fairly recent issue that we had observed. That was in our office.

Q Well, in other words, you did see a newspaper photograph?

A Yes, sir.

Q A newspaper photograph, was that --, were there any other persons in the photo?

A I don't recall. I don't believe so, sir. And I saw that only one time as best I can recall.

Q Now when you were coordinating the activities of other agents and they would come into Chattanooga for the purpose of surveillance, was it your practice then to furnish photos or information concerning the persons they were to surveil?

A They were given specific directive data and photographs if available. However, any agent would work with another agent that was already familiar with the assignment.

Q You would put a new agent on with an old agent?

A Well, new, to that assignment, yes, sir.

Q But it was also true that information was furnished to the agents so that they could adequately perform their function?

A Yes, sir.

Q Now that information concerned the background, the habits, and the appearance and so forth of the individual under surveillance?

A No, sir.

Q What information did it contain?

A The identity of the individual primarily and if a photograph of that individual was available that would be all.

Q Were the agents furnished any photographs of the defendants or their counsel?

A No, sir.

Q So that when the agents were observing the people they were assigned to observe, they could very well have observed the defendants or their counsel and made note of it without knowing the fact that they were defendants or their counsel?

A That is true, sir.

Q And that observation then would be included in their daily log?

A Probably. Not necessarily so.

Q Well, isn't it, I think you have already testified,

Mr. Barrett, that the custom and practice of the FBI in conducting the surveillances to include those references to the activities, the events, I believe the persons with whom the individual is seen?

A If that activity or what you observed is pertinent to the objective of the surveillance, yes, sir.

Q Well, in these particular instances with respect to the five named individuals, isn't it true that their activities and what they did and where they went and the report of the surveillance log also included persons they were seen with?

A Occasionally yes. Not necessarily would an entry be made if a party was observed with another party and that was of no significance an entry may or may not have been made. There is no hard and fast rule. The individual who is doing the surveillance log decides that at the moment.

Q Mr. Barrett, how long have you been with the FBI?

A Approximately 13-1/2 years, sir.

Q And in your 13-1/2 years' experience hasn't it occurred to you that matters at one time might seem inconsequential at a later date in fact become consequential?

A Oh, yes it has, sir.

Q And then on instance when an agent is observing a particular individual isn't it true that practice of the Bureau in order to avoid forgetting or recording what may at

the moment be inconsequential because it later may become consequential, isn't it the practice of the Bureau to record as much data as possible?

A You are referring to something too general for me to answer, sir. If you will be specific, I will give you a specific answer.

Q Surveillance.

A What about it?

Q Isn't it the custom and practice of the Bureau to record as much as possible when a surveillance is being made?

A No, sir.

Q Is not?

A No, sir.

Q Now you were aware that there were 723 photographs taken of persons in and about the courthouse?

A I wasn't familiar with that figure until I read it in the newspaper last night.

Q Did you read Mr. Ingram's testimony?

A Yes, I read the column of the period that he was on the stand, yes, sir.

MR. NEAL: Do you mean in the newspapers?

THE WITNESS: Yes, sir. That was I believe his question.

BY MR. SILETS:

Q And, Mr. Barrett, these photographs were taken, they were outside the courthouse? Were they taken in the courthouse, let's put it that way?

A No. No photographs were taken in the courthouse to my knowledge.

End 6
7 fls

Q Is that your personal knowledge or is it from what you have heard?

A Personal and official both, I'm quite certain.

Q May we have an understanding when you say "personal", we would like you to include your official knowledge as well as your own individual knowledge, in other words, matters coming to your attention, would it be all right with you?

A I will answer the question as it arises, sir.

Q All right. Photographs then were taken out of the courthouse.

A All that I have any knowledge of whatsoever were taken outside of the courthouse.

Q Were they taken behind the courthouse?

A None to my knowledge were taken behind this building. This way (indicating), you say behind?

Q Well, I don't know which is the direction but the main entrance to the courthouse is out on--,

A (Interposing) Yes.

MR. SILETS: What is it?

MR. REDDY: Georgia Avenue.

BY MR. SILETS:

Q Georgia Street, Georgia Avenue. They were all taken on Georgia Avenue?

A I couldn't say that, sir, I don't know. I have

never seen these photographs except in a group but to look at them individually, I have no knowledge of them.

Q Were they taken from a vehicle?

A Pardon?

Q I said were they taken from a vehicle?

A I don't know but my official understanding is that no photographs were ever taken by the FBI from a vehicle in this case.

Q Well, were they taken from a building?

A I understand they were, sir.

Q Well, were they taken from this building, the courthouse?

A I stated just a moment ago, I answered that question.

Q The question I asked you a moment ago were not photos taken in the building. My question now is were these photos taken from the building out onto the street?

A Well, wouldn't that be the same question? The answer is no, sir.

Q All right, swell. So the photos were taken from a building across the street.

A I didn't say that, sir.

Q Well, that's my question.

A Well, I understood it to be a statement.

Q Well, I am inquiring, sir.

A They were taken from a building outside of this building.

Q Across the street?

A No, sir.

Q Which building?

THE COURT: What does that have to do, really--

MR. SILETS: (Interposing) Well, Your Honor.

THE COURT: Mr. Silets?

MR. SILETS: I think it has a great deal to do inasmuch as it will disclose to the Court that the building was situated for the purpose of a dual purpose of not only taking photos of people coming in and out of the courthouse but also other areas and relating to specifically--

THE COURT: (Interposing) Let's get down to the defendants and their attorneys.

MR. SILETS: Well, sir, yes, sir, it relates to the intention of the bureau to obtain photographs of the defendants.

MR. NEAL: Your Honor, there must be hundreds of photographs, I saw several in last night's paper, I saw several in this morning's paper, I saw them when they were indicted in Nashville. Why would the bureau want photographs of the defendants? My whole family, my wife and my children, objected to this going on like this.

Can't we speed this thing up somehow? We have

expected 15 minutes for an agent, we have already been an hour here. We have 17 agents.

Now, I object to every question that is not completely material and relevant.

BY MR. SILETS:

Q Mr. Barrett, do you know at whose request the photos were taken?

A At whose request?

Q Yes, sir.

A All I know is that Mr. Ingram, my special agent in Chattanooga, asked that the photographs be taken.

Q And isn't it true that the request placed to Mr. Ingram was at the request of Mr. Neal and the others in this prosecution team, Mr. Cassidy, Mr. Shaffer?

A I don't know that that is true, sir.

Q Well, Mr. Ingram testified that way.

A Well, then you know the answer before you ask me because I didn't know it.

Q Now, you say you had conducted the radio communication aspect of the surveillance of Mr. Hicks, is that right?

A I said I was in our office.

Q Coordinating?

A Communicating between the cars while Mr. Hicks was under surveillance.

Q Do you recall at one point in this surveillance--
By the way, that occurred sometime--, that occurred sometime
in February, didn't it, the first week?

A Mr. Hicks?

Q Yes.

A No, sir, not the testimony that I am giving,
no, sir.

Q All right. Wasn't there some radio communication
where you spoke concerning Mr. Hicks and his activities and
his movements during the first week in February?

A I never mentioned Mr. Hicks by name at any time
that I can recall, sir.

Q I didn't ask you that, sir. I asked you wasn't
there some radio communications describing the movements
and activities of Mr. Hicks during the first week of February?

A Yes.

Q In which you participated.

A Yes, there was.

Q Now, according to the affidavits submitted here,
Mr. Hicks' surveillance included prior to January the 27th
but now your testimony is you were reporting by radio some
of his movements, is that right?

A That was not my testimony. I answered your
question and you said that that was my testimony.

Q All right. But it is true that Mr. Hicks'

movements were being radioed during the first week of February, even though he may not have been mentioned by name?

A It is true that there was cause for mentioning Mr. Hicks' activities during the week that you refer to, the first week of February.

Q All right. Now, did you have an agent observing Mr. Hicks as he came and left from the Patten Hotel during that week?

A No, sir.

Q Now, at one point in this radio communication, sir, that you had participated in there was some reference to a civilian band radio transmitter, wasn't there?

A Yes, I recall some reference to that.

Q Yes. That is called a CB band, is that right?

A Well, I am not familiar with it, frankly, I have always heard it referred to as a citizens band.

Q Citizens band?

A It's a radio that anyone can buy in any radio shop.

Q At one point in this communication there was reference to Mr. Hicks in his vehicle with a walkie-talkie or some radio transmitter.

A I recall reference to the fact that an individual reported to be Mr. Hicks, I did not see this.

Q What is Mr. Cole's initials, J. C.?

A No, sir.

Q Who is J. C.?

A What do you mean?

Q Which agent has the initials J. C.?

A We have an agent named Cooke, Jack Cooke, I presume that is who you are referring to.

Q Now, do you recall listening to this communication, "ten to forty-seven. We are not able to come up with that unit. We were trying to get over here. He does not have-- ten forty. Ten forty. Well, if we really want to pursue it get J. C. to check up here with the radio store that he deals with all of the time. I wouldn't be surprised if they didn't have something. O. K. Do you know or can you find out for me if you can contact a radio dealer here that you know that might have one of these CB band transmitters that we can borrow for awhile? Ten four. If I understand you, five, you said J. C. went out to see about it and they did not have one. They did not have one where we get our repairs done. Do you have any suggestions where we might locate one?"

Do you remember that conversation?

A No, sir. I read that conversation but I wasn't listening when that transpired.

Q You didn't hear that?

A No, sir.

Q Well, do you know who was speaking these words?

A I couldn't from what you read to me, sir--, no, sir, I have no--

Q (Interposing) Well, who was in Car 10?

A I don't recall that.

Q Who was in Car 47?

A I don't recall that. I don't recall a car number being 47 at that time.

Q Well, maybe that is the identification number of an agent.

A No, sir.

Q Well, let me ask you this, sir: What radio dealer were these repairs being made of--

MR. NEAL: (Interposing) Your Honor, I think we must start objecting to this as being irrelevant.

MR. SILETS: Your Honor.

MR. NEAL: Or else we are going to be here for weeks.

MR. SILETS: We won't be here for weeks. I am planning to curtail this if I can. I want to find out to the Court this is a very interesting circumstance that this communication in fact was intended so that they could overhear the communications by Mr. Hicks' operating on a civilian band receiver.

End 7
Tk 8 fol.

THE COURT: Well, gentlemen, even though this Court reasonably expects to sit upon this bench the rest of his life, I don't expect to sit here the rest of my life on this case. Let's see if we cannot move along.

MR. SILETS: May I have a moment, your Honor?

BY MR. SILETS:

Q Now, you, from time to time, spoke to Mr. Ingram, who was in charge of the overall surveillance while you were in charge of the surveillance here in Chattanooga?

A Is that a question, sir?

Q Yes.

A I frequently spoke to Mr. Ingram, yes, sir.

MR. SILETS: No further questions, your Honor.

THE COURT: All right. Any further examination of this witness?

MR. NEAL: Just one question.

CROSS EXAMINATION

BY MR. NEAL:

Q Did you ever surveil the defendants or their counsel?

A No, sir.

MR. NEAL: That is all.

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Barrett, you don't mean to testify that you

never observed the defendants, do you?

A I answered your question the only time I had any personal observation.

Q You did, in fact, observe Mr. Hoffa, didn't you?

A I understand he was in that vehicle as it passed as I testified.

MR. SILETS: All right. I believe Mr. Hawkins is next.

THE CLERK: Raise your right hand, please. Do you solemnly swear the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

M. JAY HAWKINS,

a witness called at the instance of the Defendant Larry Campbell, and called pursuant to the motion to suppress, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir, and spell your last name?

A M. Jay Hawkins (spelling) J-a-y H-a-w-k-i-n-s.

Q Will you keep your voice up?

A Pardon?

Q Will you keep your voice up?

A Yes.

Q What is your occupation?

A I am Special Agent of the Federal Bureau of Investigation.

Q And where is your post of duty?

A Chattanooga, Tennessee.

Q Are you the agent in charge at Chattanooga?

A No, I am not.

Q What is your title, if any?

A Special Agent.

Q Are you supervisor?

A I am not.

Q Did you at any time supervise any activities within the last two months relating to affairs, matters or individuals pertaining to the case of United States vs. James R. Hoffa, et al.?

A I was assigned the duty of coordinating any investigation that might be conducted in Chattanooga growing out of this matter.

Q And was there any such investigation?

MR. NEAL: I object to that.

THE COURT: Sustained. Let's get down to the issues, gentlemen.

MR. SILETS: Your Honor, I think that is the

heart of it.

THE COURT: Well, go ahead and ask your question about individuals.

MR. SILETS: Your Honor, may I indicate to the Court I would like to take an exception to the Court's ruling in this matter, when I asked, if I ask if there was any surveillance of the Defendant Hoffa, I'm asking for a conclusion. I don't want to ask about a conclusion. I want to know the facts and if in fact the facts are such to leave the Court that the conclusion is a surveillance of Mr. Hoffa then the Court can rule. But to merely ask the question--

THE COURT: (Interposing) State a question, sir.

BY MR. SILETS:

Q You were coordinating an investigation?

A I was to coordinate any investigation that might arise out of the matter being tried.

Q And did you in fact coordinate an investigation?

A I was aware of all activity that was conducted in this area in connection with this matter.

Q Mr. Hawkins, did you hear my question? Did you in fact coordinate an investigation?

MR. NEAL: Your Honor, this is just a general statement, did you coordinate an investigation, that is what we object to. If it is related to surveillance of the defendants or surveillance of anyone any time during the trial

we have no objection, but investigation, I am sure he conducted investigations and will conduct some more growing out of this matter.

MR. SILETS: Well, your Honor, I gather that Mr. Neal has just made a veiled threat of some sort.

MR. NEAL: No, I didn't mean to make any veiled threat.

MR. SILETS: It was a direct threat?

MR. NEAL: No. No threat whatever. I objected to the question was all.

MR. SILETS: In this affidavit he said he was assigned to coordinate investigative activities. That is what I am asking.

BY MR. SILETS:

Q Did you coordinate any investigation? Simple question.

A There was some investigation conducted during the course of this trial.

Q And it was with respect to the trial?

A Matters--

THE COURT: (Interposing) Gentlemen, let's get down and see if we can't get down--there has been testimony here about surveillance of five certain individuals and none of them are defendants, none of them counsel, none of them witnesses.

MR. SILETS: Your Honor, with deference to the Court I am now inquiring of matters contained in the affidavit which is in evidence in this motion.

THE COURT: All right, state a question.

BY MR. SILETS:

Q Your affidavit says in the course of my duties I became aware of all investigative activities of agents of the Federal Bureau of Investigation conducted with respect to this trial in and about Chattanooga. Is that right?

A I conducted some investigation, yes, in connection---

Q (Interposing) Sir?

A I conducted some investigation here, yes.

Q You did?

A Yes.

Q And was that--was the nature of that investigation such to constitute observation of certain individuals?

A On two occasions I conducted actual physical surveillance of individuals.

Q Was relating to observation and not technical phrase, surveillance, do you recognize the distinction between the two?

A I observed two individuals who were under surveillance in Chattanooga.

Q Who were they?

A One was William A. Test and one was Bernard

Spindel.

Q In your affidavit you do not set forth the fact that you had conducted a surveillance of Mr. Spindel and Mr. Test?

MR. NEAL: Is that a question?

MR. SILETS: Is that true?

THE WITNESS: I don't have a copy of my affidavit with me.

BY MR. SILETS:

Q Well, the Court has that. No need to review that now. In the course of observing Mr. Test, did you see any other individuals who had been associated with this case?

A I did.

Q Which individuals did you see?

A I saw Mr. Hoffa.

Q Who else?

A There was quite a number of people in the party. He is the only man I recognized at that particular time.

Q Before you began your observations of Mr. Test, did you--were you furnished photos of him?

A I had seen Mr. Test before. I knew him.

Q You knew him, did you know him to be a man who might be in the presence of Mr. Hoffa?

A I saw him in the presence of Mr. Hoffa.

Q No, sir. My question is, did you know him to be

a man who might be in the presence of Mr. Hoffa?

A There was reason to believe that he might be, yes.

Q Now, where was the occasion that you observed Mr. Hoffa?

A I saw Mr. Test in the presence of Mr. Hoffa at the 11th Street entrance of the Patten Hotel between the hours of four and five o'clock on the afternoon of February, January--correction. January 17, 1964.

Q Was that the occasion when Mr. Hoffa arrived from the airport into Chattanooga?

A That's correct.

Q And how long had you been stationed at the entrance of the hotel?

A I was not stationed at the entrance of the hotel. I walked past on 11th Street and saw him there.

Q Well, was it by chance that you walked past?

A It was not by chance.

Q Can you tell us how you happened to walk past?

A Mr. Test was under surveillance on that particular day. He was observed at the airport. He was seen to get into a Cadillac automobile and proceed toward downtown Chattanooga. I walked past the hotel at about 4:55 and I saw Mr. Test in the presence of Mr. Hoffa and others who were in front of the hotel.

Q My question, sir, is how you happened to be in

front of the hotel? That is the question.

A I had information from agents who were surveilling Mr. Test that he had gotten into his car and was proceeding toward downtown Chattanooga.

Q Well, how did you happen to be at the hotel?

A I wanted to determine the whereabouts and the activities of Mr. Test.

Q How did you happen to be at the hotel?

A I wanted to determine whether Mr. Test was at the hotel if he was coming into the hotel.

Q Mr. Hawkins, I will ask you again, how did you happen to be at the hotel?

A That is my reason for being there, to determine Mr. Test--

Q (Interposing) You just picked out any hotel?

A No, I did not.

Q Then how did you happen to be at that particular hotel?

A Mr. Test was seen to get into a Cadillac automobile with members of Mr. Hoffa's party and we had reason to believe that they would be coming to the Patten Hotel and about the time I thought they would arrive there I walked past the hotel to see if Mr. Test came into the hotel.

End Tk 8
Tk 9 fls.

Q Why did you have reason to believe Mr. Hoffa would go to the Patten Hotel?

A I can't recall how I obtained information that Mr. Hoffa probably would be staying at the Patten Hotel.

Q You mean that was a guess?

A No, it was not a guess. Well, I obtained that information.

Q What was the information that you had which led you to believe that Mr. Hoffa when he got into his Cadillac automobile would go to the Patten Hotel?

A I can't, I can't state positively where I received the information.

Q Give us your best recollection.

A I can't recall where I obtained the information.

Q You can't recall that?

A Pardon?

Q You can't recall that?

A No, I can't.

Q What date was this?

A The 17th of January.

Q Had any agents made inquiry at the Patten Hotel as to who was staying there or made reservations?

A I can't answer that question. I made no inquiry there.

Q Well, do you have any knowledge, either officially

or unofficially, of such inquiry that you heard of?

A I can't answer that. I don't -- I have heard many things but I can't answer whether I heard from another agent or who I obtained that information from.

Q Then you were informed that they were on their way to the Patten Hotel, is that correct?

A I was not.

Q Do you mean you just on your own volition took up a station outside of the Patten Hotel?

A Well, I had reason to believe that they might be coming there based on information I had previously received.

Q All right. Based on that previously received information you then took up station outside of the hotel?

A I did not.

Q What did you do?

A I walked past the hotel.

MR. REDDY: May it please the Court, I believe Mr. Hawkins has told Mr. Silets four times that he walked by the Patten Hotel.

MR. SILETS: Well.

THE COURT: Well, perhaps he wants it five times. Please proceed.

MR. SILETS: I think that is maybe what I would like to do at the moment, your Honor.

MR. REDDY: Mr. Silets is a little hard-headed.

BY MR. SILETS:

Q For the fifth time, Mr. Hawkins, you walked by the hotel at precisely the moment Mr. Test pulled up in the automobile, is that your testimony?

A I did not.

Q All right. Were you walking back and forth in front of the hotel?

A I was not. I walked past one time.

Q And that happened to be the precise moment that Mr. Test pulled up with Mr. Hoffa?

A The answer is no.

Q Well, perhaps I am a little bit dull witted this morning. Didn't you testify that you observed him in front of the hotel?

A I did.

Q In the presence of Mr. Hoffa?

A I did.

Q And was that at the time the automobile arrived?

A It was not.

Q When was it then?

A I don't know when the automobile arrived. The automobile was parked in front. Mr. Hoffa and Mr. Test and a number of others were being photographed and apparently interviewed by the press. There was quite a congregation in front when I walked past.

Q That was your first time past the hotel and the only time?

A That was the first and only time.

Q All right. Now, what did you do after you walked by?

A I walked to the corner of Lindsay and Eleventh Street, turned left on Lindsay, walked back to our office in the U. S. Post Office and Courthouse.

Q Did you have any radio sending devices with you at the time?

A I did not.

Q When you came back to the courthouse did you make an entry into your surveillance log?

A I did.

Q And what did the entry read?

A "William A. Test observed Eleventh Street entrance, U. S. Post Office and Court -- I mean Patten Hotel and in presence of -- with Hoffa party," if I recall correctly.

Q With Hoffa party?

A Yes, that is the gist of what I said.

Q When you say "with Hoffa party," meaning that you had -- which would be reflected in your report, means Hoffa, too, I suppose?

A Well, the Hoffa party, as I recall, is the way it

was entered in the log.

Q That's the way your surveillance -- by the way, is that in your own handwriting?

A Yes, sir.

Q Where is your surveillance log, Mr. Hawkins?

A I turned it over to Mr. Ingram.

Q Mr. Ingram?

A Yes, sir.

Q When was that done?

A Oh, I have no recollection of when that was done, sometime after the 17th, I don't know when that was turned over to him.

Q Now, at any time did you conduct an additional surveillance?

A I saw Spindel on one occasion. I have seen him on more than one occasion but during the period that he was under surveillance I observed him on one occasion.

Q All right. Where did you observe him?

A Standing outside of the corridor in front of the courtroom doors looking into the courtroom.

Q Right out here?

A Yes, sir.

Q Do you mean you were keeping him on observation right outside of the courtroom?

A I was not.

9-6

Q Well.

A Passed down the corridor on my way to the U. S. Attorney's office on a matter of official business and I saw Mr. Spindel standing in the corridor.

End 9
9a fls

Q That was a period that you were assigned to keep him under observation?

A I was never assigned to keep anyone under observation. I was not assigned to the surveillance as such at any time.

Q Of Mr. Spindel?

A Of anyone.

Q Well, I again misunderstood your testimony. You said that you had been surveilling Mr. Test and Mr. Spindel?

A I did not say I was assigned to that surveillance. I said that I had observed the two of them, actually physically observed the two of the men during the period that they were under surveillance but I was not assigned to the physical surveillance.

Q What were your assignments, if any, with respect to the surveillance?

A I had no assignments with respect to the surveillance. From time to time I was on the radio in our office but so far as having any specific assignments on the surveillance, I had none.

Q Well, do you mean to say on the day of the 17th when you observed Mr. Test in the presence of Mr. Hoffa you were not on an assignment?

A I was not officially assigned to this surveillance, no.

Q Were you on official business at the time?

A I was on duty at the time, yes.

Q And were your duties at that time to observe Mr. Test and Mr. Hoffa?

A They were not.

Q You mean this was a fortuitous circumstance?

A Well, I was in the office when I received word by radio concerning the presence of Mr. Test at the airport and at the time, which I thought that he would probably be arriving at the hotel I walked past the hotel to see if he would be coming in the hotel.

Q That wasn't by instruction from Mr. Barrett or Mr. Ingram?

A No, that was on my own.

Q Do you normally do things like that on your own?

A Well, there are many times when we have to handle matters on short notice or on our own initiative.

End 9A
Begin 9B

MR. SILETS: May I have one moment, Your Honor?

BY MR. SILETS:

Q Mr. Barrett, in your affidavit you indicated that you had participated in radio--

MR. REDDY: Hawkins.

BY MR. SILETS:

Q I am sorry, Mr. Hawkins.

A Yes, that is correct, Hawkins.

Q I am sorry I called you Mr. Barrett.

A Yes, sir.

Q Mr. Hawkins, in your affidavit you indicated that you had read what has been marked as Exhibit A, the affidavit of Mr. Spindel and the transcription of certain communications. Do you recall that?

A Yes, I do.

Q And you recognize that somewhere in that communication are words spoken by you.

A That is correct.

Q Do you recall which of those words were spoken by you?

A No. With a copy I think I could pick out those statements I made but without the copy I can't tell you what they were.

Q Just a couple of more questions, sir. In radio communications when the phrase B-1 or B-2 is used that has reference to an agent stationed in a building, doesn't it?

A Fixed locations, yes.

Q And when a number is used it has one of two meanings, the number of a vehicle or the agent's identification number, isn't that right?

A At times that is true, not always is that true.

Q Well, most of the times?

MR. NEAL: Well, I don't think, Your Honor, I

don't think we should be going into this.

THE COURT: Sustained.

BY MR. SILETS:

Q At any time in the course of this surveillance were agents on foot?

A At times, yes.

Q And when on foot, did they have radio communication devices with them?

A As I have said before, I didn't handle the surveillance but to my knowledge there was no such equipment in use by any man on foot during the course of the surveillance.

Q All right. Mr. Hawkins, just one last question. Do you know whether the radio in the TV station, channel 3 here in Chattanooga, was under surveillance?

A No, I know it was not under surveillance.

Q Do you know that it was not?

A Yes, I know that it was not under surveillance.

Q How are you so positive about that?

A Well, I am aware of the surveillances that were conducted, I know who was being surveilled, I know about the surveillances but I did not--, I did not personally supervise them but I know about them, I know who was under surveillance and who was not under surveillance.

Q You were aware, weren't you, that--, I believe on January 17th--, Mr. Hoffa was at Channel 3.

A I was not aware of that. I heard that he was there but I was not aware of that.

Q Mr. Test was there, too?

A I do not know that.

Q You mean your surveillance reports and the surveillance that was conducted under your supervision and that you are aware of did not include the fact that Mr. Test was at Channel 3?

A Would you repeat the question?

MR. SILETS: Read the question.

(Thereupon, the previous question was read by the court reporter.)

A I testified that I did not supervise the surveillance.

Q Well, let me ask the question without the phrase "supervising", just take that out. What would your answer be?

A I know that from 4:58 p. m. when Mr. Test went into the Patten Hotel he was not observed again until he returned to the airport and picked up his automobile which, as I recall, was sometime after eight o'clock. I wouldn't make that as a positive statement. I would make a positive statement that he went into the hotel at 4:58 and I know that he was not under observation, his whereabouts were not known from that time up until he was seen again at the

airport in his automobile.

Q Were any photographs taken in the hotel itself?

A In the hotel?

Q Yes.

A No.

MR. SILETS: That is all. Nothing further.

THE COURT: Anything further, gentlemen?

MR. NEAL: No, your Honor.

THE COURT: Mr. Hawkins, was there any surveillance of any defendant in this case or any of their counsel?

THE WITNESS: There was not.

BY MR. SILETS:

Q Mr. Hawkins, in answer to the Court's question you have given a technical meaning to the word surveillance. Your testimony is that you in fact observed Mr. Hoffa in the course of your official duties, isn't that right?

A That was incidental to the surveillance that we were conducting.

Q Sir, my question is, you in fact observed Mr. Hoffa in the course --

A (Interposing) Mr. Hoffa was not under surveillance.

Q I will repeat it again. You in fact observed Mr. Hoffa while in the course of your official duties?

A I did but we observed many people that were not under surveillance.

MR. NEAL: That was casual observation of Mr.

Hoffa at the time you mentioned before in front of the Patten Hotel?

THE WITNESS: It was.

MR. NEAL: When he was being interviewed by the press and photographed by the press?

THE WITNESS: Right.

BY MR. SILETS:

Q Do you have personal knowledge of who else was observed by other agents in the course of their duties?

A Of course not.

MR. SILETS: I have nothing further.

THE COURT: All right.

MR. SILETS: Your Honor, we will call Mr. Spindel at this time.

THE CLERK: Raise your right hand, please, sir. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you, God?

THE WITNESS: I do.

THE CLERK: Have a seat.

BERNARD B. SPINDEL,

a witness called at the instance of the Defendant Larry Campbell, and called pursuant to the motion to suppress, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir, and spell your last name?

A Bernard B. Spindel (spelling) S-p-i-n-d-e-l.

Q And where do you reside, Mr. Spindel?

A R. D. 2, Holmes, New York. (Spelling) H-o-l-m-e-s.

Q Mr. Spindel, are you here under subpoena?

A Yes, I am.

Q And do you have it with you?

A Yes, I do.

Q Will you hand it to the marshal? May we have that marked, your Honor?

THE COURT: All right.

THE CLERK: 247.

(The subpoena referred to above by the Witness Spindel was marked for identification as Exhibit No. 247.)

BY MR. SILETS:

Q This Exhibit No. 247 is a subpoena served on you by which party to this lawsuit?

A By the government.

Q The United States of America?

A That's correct.

Q And who was the attorney having issued the subpoena?

A Mr. John Hooker.

MR. SILETS: Your Honor, may we examine Mr. Spindel then as an adverse witness?

THE COURT: No, sir.

BY MR. SILETS:

Q Now, Mr. Spindel, what is your occupation?

A I'm electronics technician.

Q Will you keep your voice up, sir, and speak distinctly so I can hear you?

A I'm an electronics technician.

Q And will you explain the activities or, excuse me, will you explain the work that an electronics technician does?

A Well, I specialize in eavesdropping devices. The detection of the devices. Methods. Equipment. And the design, development, and the manufacture of specialized equipment for eavesdropping and detection.

Q Have you had any special training or courses or schooling in the field of electronics?

A Yes, I have.

Q Would you tell the Court what they are?

A I have been trained as a wire chief local battery telephone. A wire chief common battery. Installation, maintenance, and repair of radio equipment, aircraft ground equipment. Very high frequency, very low frequency. Tronic,

subtronic transmission. Security transmission. Radio, teletype, teletype and wire teletype.

Q I assume you have also had courses in basic electronics and telephones and matters of that sort?

A Yes, I have.

Q Have you had courses or instruction or training or experience with the use of facsimile transmission, carrier, radio, sonic, trans-sonic, and sub-sonic transmission and security transmission?

A Yes, I have.

Q And have you ever been called to give expert testimony?

A Yes, on many occasions.

Q Well, will you tell us some of the occasions?

A I have been called before the Congress of the United States. House of Judiciary Committee to testify as an expert and to demonstrate the techniques, latest techniques in the field of eavesdropping, eavesdropping detection. I have testified before federal grand juries, state grand juries. Federal court. State courts. I have been called as an expert before the state legislative committees. New York, New Jersey. I have given expert testimony before official bodies, and I have been retained as a consultant to the New York City Anti-Crime Committee which was responsible for the disclosure of the largest wiretap center in the world.

Q Being called before federal, state, and city courts, were you called and qualified as an expert in your field?

A Yes, I have.

Q And being called before federal and state grand juries, were you called and qualified as an expert in your field?

A Yes, I have.

Q Have you ever appeared or been known or developed a reputation nationally?

A Yes, I have.

Q And have you ever appeared on any national radio, television programs?

A Yes, I have.

Q With respect to your profession?

A That's correct.

Q In your field of electronics?

A That's correct.

Q And on those programs and discussions were you considered and named as an expert in your field?

A Yes, I was.

Q Have you ever published any matters concerning your expertise?

A Yes, I have published numerous articles in Reader's Digest, Collier's. In other national publications.

National newspaper series. Magazine sections of newspapers. And many other stories have been published regarding --

Q (Interposing) Those are stories you yourself have written; have any stories been written about you?

A Yes. Yes.

Q Have you been considered through the press and the other public information media to be an expert in your field?

A Yes, I have.

Q Now during the last 20 years or so have you been engaged in research, development, design and/or manufacture of new equipment for detection and prevention of wiretapping?

A Yes.

Q Now, sir, do you have any particular knowledge of surveillance, that is, following and reporting the movements of certain individuals?

A Yes, I do.

Q What is that knowledge and what is your experience?

A I was trained during the war as a counter-intelligence agent and after leaving the service I was licensed as an investigator by the State of New York to practice in the private profession as a licensed investigator.

End 10
11 fls

Q Have you ever appeared or have you ever been employed by a federal agency in terms of this knowledge that you have gained in expertise?

A Yes.

Q With respect to the methods and techniques of surveillance that you obtained and learned as an agent, counter-intelligence agent, what agency or what were you participating in?

A At that time, during the war?

Q Yes.

A I was an agent, I was an undercover agent covering security of a government installation.

Q Are you at liberty to disclose that?

A No, I am not.

Q Can you explain to the Court why you are not at liberty to disclose that?

A Under our National Security Act we were warned that we were not permitted to discuss or disclose certain involvements in our work.

Q As a counter-intelligence agent?

A That is correct.

MR. SILETS: May we offer Mr. Spindel as an expert in his field, Your Honor?

THE COURT: All right.

BY MR. SILETS:

Q Now, Mr.Spindel, at any time during the last several months did you receive a call from any attorney participating in this lawsuit?

A Yes, I did.

Q And can you give us the best of your recollection the date of that call?

A It was Saturday, February 1st.

Q 1964?

A 1964.

Q And from whom did you receive that call?

A Mr. Jacques Schiffer.

Q And would you relate to the Court the conversation.

A He asked me if it would be possible for me to come down to Chattanooga and make a survey to determine if there was any surveillance of the defendants, their counsel or their staff here in the city of Chattanooga.

Q Was anything else said?

A He said that if my report showed that it was negative I was to pack up my equipment and return to New York and bill him for my services; if it was positive I was not to divulge to anyone other than to indicate the results of my--, that the results of my examination were positive and I was to make my report as an aide to the Court and seal my information and present it to the Court.

Q Now, following this phone conversation what, if

anything, did you do next?

A I made a reservation on American Airlines for a flight Monday morning to Nashville, Tennessee, and I prepared my equipment, packed it for shipment.

I then took the flight Monday morning to Nashville, rented a vehicle and drove to the city of Chattanooga.

Q That will be February 3?

A February 3rd. I arrived in Nashville approximately eleven-thirty in the morning, rented an Avis-Rent-A-Car, loaded my equipment and proceeded here to Chattanooga. I arrived here at approximately three p. m.

Q On your arrival what, if anything, did you do next?

A I parked my car about a block away from the hotel on a parking meter, took my briefcase with my basic inspection tools and went to the 9th floor of the Patten Hotel and started a physical inspection of the premises of the headquarters on the 9th floor and covering the rooms of the defendants, their attorneys and their staff.

Q Now, would you relate to the Court in substance what the physical inspection was.

A The general procedure as followed for this type of inspection and what I did here in this particular case is first to inspect the telephones located in all of the rooms

to determine if an additional connection had been made in that instrument which would convert the telephone instrument to a live microphone, even though it's hung and even if someone perhaps even miles away could pick up a conversation within that room.

Following that it requires a physical inspection of every electrical appliance within the room, such as lamps, television sets, radios, under the couch, chairs, under the beds, a search of the air-conditioning ducts and a search of the entire walls to determine if anything is buried underneath the wall.

Q Do you have equipment to do that?

A Yes. That is looking for a direct type or direct wired microphone. I completed that phase of the inspection sometime early Monday morning or, rather, Tuesday morning.

And the next step in the procedure is a search for hidden radio transmitters, sub-miniature transmitters which could be concealed almost anywhere, including the springs of a couch, the base of a lamp, air-conditioning ducts, under the beds, under the rugs, buried in the walls. This type of a transmitter requires no direct wiring and it transmits a radio signal depending on the power of the transmitter to a distance as much as a mile away where the actual room conversation could be then intercepted and

recorded.

Q Now, this search for such sub-miniature radio transmitters, did that occur on Monday or on Tuesday?

A On Tuesday afternoon.

Q All right. Let's get back to Monday. When you arrived you say you arrived at the hotel at what time?

A Approximately three p. m.

Q And then you went, parked your car at a meter, you say?

A Yes.

Q And went upstairs?

A That's right.

Q When you went upstairs tell the Court what, if anything, you did.

A Well, I went upstairs and I went to Room 914 which was Mr. Hoffa's suite and began to unpack my tools. I looked around outside of the window and across the street from the--, right in front of the Greyhound bus terminal. I noticed a car and in my tool kit I maintain a special pair of binoculars and I looked at the car. It contained two FBI agents and by looking at the antenna of the radio of the car I determined that it was a Federal Bureau of Investigation car.

Q What about the antenna which--, what is it about an antenna that would lead you to believe it was an FBI car?

A Well, a normal car antenna looks like just possibly hundreds of thousands of them. For what we call phantom radio an antenna used by government agents, state police, for their unmarked cars, there is a special antenna that is designed and it is made to operate on the frequency which the government or the agency would use.

The government uses a phantom antenna with a special type of base, which is a removable base, and technically it's known as a amphonel type of connector.

Q Would you spell that for the reporter, please?

A (Spelling) A-m-p-h-o-n-e-l.

Q And you identified the antenna on this vehicle as being the amphonel type?

A That is right, plus the height or the size of the phantom antenna. By the size we can determine the frequency to which it is tuned or the approximate frequency.

Q What did you do next, if anything?

A Well, I had occasion to go down to put additional coins into the parking meter where the car was parked and I was very careful and alert as I did this to observe movements of various vehicles and persons in the street and when I did leave I did notice one particular man towards the back of the building watch me and then I noticed another car as I was depositing my coins pull by again, another FBI car with a phantom antenna on it.

Q What did you do next?

A I returned to the hotel suite and continued my work.

Q All right. Now, the next day you started to tell us about your activities in searching for radio transmitters.

A That is correct.

Q Will you describe to the Court what, if anything, you did?

A Well, in order to determine if there are actually radio transmissions within, we'll say, several blocks of the Hotel Patten where the union--, where the headquarters of the defense is, it's necessary to use very elaborate radio receivers designed for the purpose, we call them search receivers, technically they are capable of intercepting any radio frequency used for normal broadcasting, overseas broadcasting, TV stations, it will--

Q (Interposing) Include TV and radio?

A Everything that is possible to transmit by radio they will intercept.

Q And what did you do, if anything?

A It takes approximately three to four hours to do a complete search over the entire radio spectrum and while sweeping through the radio frequencies I came across transmissions which were exceptionally strong and exceptionally clear, indicating that they were being transmitted within

the immediate vicinity.

On checking the frequency it came out to approximately what the government frequency would be.

Q And what did you do, if anything?

A At that point there I had no recording equipment whatsoever at that moment and I made a notation of the place on the dial or the frequency at which the signal was coming in and I listened to it and I determined from the monitoring that in fact it was government agents' cars and transmissions.

End 11
Tk 12 fol.

Q Now, did you disclose that to anyone?
A No.
Q What did you do next, if anything?
A Well, at that point I requested that I borrow a dictating machine.
Q Did you tell anyone what the purpose was?
A No. No.
Q All right.
A And I went upstairs and I borrowed one of the dictating machines in the office. I came back to my room and I decided to make actual recordings of the transmissions so that I may have a record and also for future identification.
Q And what did you do next?
A Later on that evening I indicated to Mr. Schiffer that my report at this time is positive and that I will not discuss it any further with anyone and that I will prepare a report based on my findings and I would seal it and submit it with an affidavit to the Court.
Q Did you do that?
A Yes, I did. I further discussed with Mr. Schiffer that I could not continue the inspection for which I originally came here for and I told him that in order for me to complete a physical inspection to see if the telephone lines were tapped, I should add at this point that I did make

a physical inspection of the telephone cables and the terminal box in the basement of the Hotel Patten and at the switchboard. To further complete this and be absolutely positive it would be necessary for me to trace this underground cable outside the area of the Hotel Patten. To do this would require my taking my instruments outside of the hotel and unfortunately the same instruments used to identify lines and cables and check the cables would be instruments that could be used for intercepting telephonic communications and in view of the surveillance that was upon myself that I had personally noticed, I advised him that I thought best that I do not complete that phase of it for fear that an incident may be caused if I am found with instruments outside the Hotel Patten.

Q Let's get something understood, Mr. Spindel, did you ever intercept any telephonic communications?

A No.

Q As a matter of fact, when was the next time that you did leave the hotel at all?

A Well, one other occasion, let's see, Tuesday morning I walked from the hotel at approximately eight o'clock in the morning to the Western Union office near the Read House and then I went to get a haircut. I was observed and followed then. I went to the Greyhound bus terminal, bought some electronic magazines at the newsstand. I was observed

and followed then.

Q By the way, when you were in the bus terminal, did you notice anything different about the agents who were observing you?

A Yes. One of them had a newspaper wrapped and stuck in his pocket. He had a hearing aid on. And to me that was an indication of a two-way walkie-talkie as used for communication between a man walking the streets and a man located somewhere else.

Q Now according to your --

MR. NEAL: (Interposing) Your Honor, we move to strike that last answer. He said agent. Unless he can identify this person as an agent, we move to strike the answer.

THE COURT: Well --

BY MR. SILETS:

Q (Interposing) Have you ever seen the individual again?

A I saw him walking around the Hotel Patten.

THE COURT: Well, that is a matter I assume you can cross examine about.

MR. NEAL: Very well.

BY MR. SILETS:

Q All right, would you --, as I understood it in answer to my question, did you go out of the hotel? You just

described these events and you purchased magazines in the bus terminal.

A Yes. I think to better observe this particular individual I went over to the --, he was standing next to the ticket counter, and I inquired at the ticket counter what the schedule and cost of busses to Atlanta was. As I walked out the bus terminal the same two gentlemen that had been in front of the Greyhound terminal in a white car or cream-colored car on Monday were now riding in a green car.

Q Also with the phantom antenna?

A Also with the phantom antenna. I then walked to the Avis Rent-A-Car and inquired what it would --, what the procedure would be if I drove my car to Atlanta and left it there and so on and returned back to the hotel.

Q Did you --, when was the next time that you actually left the hotel?

A The next time, I believe, was the following Monday which would make it February 10th.

Q So after the Tuesday of the 4th, you never left the hotel?

A No.

Q Until the following Monday?

A Tuesday evening at about 5:00 o'clock I walked downstairs to the Eleventh Street entrance and purchased a newspaper from the newsboy and went back to the hotel and

never left until February 10th.

Q Now you say that you made a record and a sealed exhibit or a sealed document of the information that you had obtained?

A Yes.

Q Is that to your knowledge the same document that was filed with the Court?

A Yes.

MR. SILETS: Your Honor, may we have that so it may be identified? No, that one is still sealed, Mr. Dale. I want the one that was opened by the Court.

THE COURT: See if they are in there on my desk with the court files. Just bring all of those papers.

MR. SILETS: Would your Honor, would the Court like to take a recess?

THE COURT: Let's take a 10-minute recess at this time.

(Thereupon, at 10:50 o'clock, a.m., court was in recess.)

End 12
13 fls

MR. NEAL: May I take just a moment of the Court's time?

THE COURT: All right.

MR. NEAL: Your Honor, we are doing everything we can to provide the people for this hearing and for any material that is relevant. We would do this without subpoena. All that has to be done is for Mr. Silets or who is conducting this is tell us what they want and if it is within any reason we will do it without subpoena, FBI agents and so forth. We have had 17 here today. We don't know whether they are going to be used or not. We have had them here.

Now, I want to know two things. Do they want the FBI agents involved from out of town who may have been involved in this surveillance? I understand there were two or three from Charlotte, North Carolina, a couple from Memphis and maybe one or two from Atlanta.

Now, do they want those? We have to get them on the way here if they do.

MR. SILETS: May I have a moment, your Honor?

THE COURT: Yes, sir.

MR. SILETS: Your Honor, if the government would like to use them in response they can. We will not request that they come.

MR. NEAL: I understand then that these agents

are not required?

MR. SILETS: That's right.

MR. NEAL: Now, your Honor, how about the special agents in charge. We move to quash their subpoenas. I think the testimony of Mr. Ingram yesterday certainly justifies a quashing of those subpoenas. We are having affidavits, by the way, your Honor, but may those agents at least not start down here, is that the understanding we have?

MR. SILETS: That's all right.

THE COURT: All right.

MR. NEAL: Now, one other thing, your Honor. I don't know who, as I said, we have tried to have anyone here that they wanted within reason or any material within reason. I don't know who is abusing this Court's process, abusing this court, but it certainly is being abused and that the government requests protection from this sort of thing.

Now, today there was issued another forthwith, your Honor, a forthwith subpoena. This is a command to be here, a forthwith subpoena to Mr. John T. Mohr (spelling) M-o-h-r. This is the third Assistant Director of the Federal Bureau of Investigation, the man next to Mr. Hoover, these men are, to be subpoenaed from Washington forthwith.

Now, Mr. Hoover, as a matter of fact, I understood that Mr. Hoover was standing by to come down here in place of Mr. Tolson, who is in the hospital and couldn't

come.

If your Honor had requested, Mr. Hoover was ready to come down. These people do not want to; they do want to show the respect for this Court and they will be here, but I think it's outrageous that these forthwith subpoenas are being issued, apparently like confetti and being scattered around Washington.

Now, here is what this one says that--

MR. SILETS: (Interposing) What is the date of that?

MR. NEAL: The date is March 4th, today. All--

MR. SILETS: (Interposing) Today is the 5th.

MR. NEAL: Well, all right, it's dated March 4, yesterday. "All vouchers, receipts and memoranda of payments to persons in connection with surveillance conducted in the above-entitled cause, such memoranda to be furnished for the period of 1 January, '64, to 29 February, '64."

Now, your Honor, no one with any reason or any discretion in any way could expect this to be material or the Court--could expect the Court to permit introduction of vouchers and memoranda of payments in this space.

We will file a written motion but somebody is certainly abusing the process of this court. Now, this contains the name "James E. Haggerty, Sr." Mr. Haggerty is not here but Mr. Haggerty or Mr. Berke or Mr. Silets or Mr.

Branstetter or Mr. Brown or Mr. Schiffer, whichever one is responsible for these subpoenas being issued in this manner certainly should be the subject of some action.

We move to quash this one and if they serve some more we move to quash them.

MR. SILETS: Your Honor--

MR. NEAL: (Interposing) Just a moment. These are forthwith subpoenas. These gentlemen do want to be respectful to this Court. Anybody in Washington will come down at the Court's request. We made that plain, but these are forthwith subpoenas. This means if they do not immediately get on the plane or make plans to leave their offices and come to Chattanooga, Tennessee, they are showing contempt of court and they don't want to do that and this is unfair and I am being pushed, too, by the way.

End Tk 13
Tk 14 fls.

MR. SILETS: May I be heard, your Honor? I have never seen this subpoena but from examination of it it appears that the matters would be relevant on the inquiry to ascertain whether these payments were made to individuals other than those that have been admitted by the government as being on surveillance and this goes back to my statement of yesterday that there are instances where agents are sent into an area unknown to the agent in charge or the supervising agent. Now this particular subpoena I personally have no knowledge of, but as I say, I can't imagine how this can be considered an abuse of process because if these records were produced they would be material and would be relevant to this inquiry. And as long as in good faith an attorney determines that the matter so subpoenaed and the individual so called would give testimony and produce documents relevant and material that there is no abuse of process.

THE COURT: Well, let's file a written motion, if you desire to move to quash.

MR. NEAL: Yes, we will file it and may I state that if they will make a request here of anyone or any document and we get a ruling of the Court that that is pertinent and relevant, we will produce it without subpoenas. Could they at least make a request without issuing these forthwith subpoenas? I don't know what is coming tomorrow or in the next hour but I know that I am certainly getting a lot of

communications about forthwith subpoenas in Washington, D. C. If they will make a request and if the Court will rule on it, we will get them down here.

THE COURT: Well, it does appear that the subpoena power has been abused in this case. The Court will expect to look into those matters when it has an opportunity to review the record in the case. Anyone who has abused such subpoena powers will certainly be called upon to account.

MR. SILETS: May I inquire of the Court, I have had issued for this hearing some 25 subpoenas for the agents who appear and testify to inquire of the matters that they have given an affidavit on. Is it the Court's ruling that if I now in my judgment decide not to call them that that is an abuse of subpoena power?

THE COURT: The Court is making no ruling whatsoever, Mr. Silets. Attorneys just conduct themselves in good faith in accordance with their understanding of their obligation as attorneys to the Court and there will be no difficulty whatsoever.

MR. SILETS: I'm trying to do that as best I know how, your Honor, but I don't want the Court to feel that if I have subpoenaed somebody and they are sitting out there and I now say to them I think I have proven enough in my judgment that you don't have to testify, I don't want the Court to imply that I have abused the Court's process.

THE COURT: All right.

MR. SILETS: Because if the Court should have any such implication I will call them all in to testify. Now I am now coming to the opinion that I may be able to avoid calling those FBI agents, but if the Court --

THE COURT: (Interposing) Mr. Silets, just conduct yourself with your own understanding of the obligation of an attorney in good faith and there will be no problem.

MR. SILETS: Thank you, your Honor. I have hoped that I have done so in the past and continue to do so in the future.

BY MR. SILETS:

Q Now, I believe the last question put to you, Mr. Spindel, was:

"Question: Now you say that you made a record and a sealed exhibit or a sealed document of the information that you had obtained?

"Answer: Yes.

"Question: Is that to your knowledge the same document that was filed with the Court?

"Answer: Yes."

Now, Mr. Dale, is that marked? Is that an exhibit?

MR. DALE: You want it marked?

THE COURT: It has been marked as an exhibit.

Exhibit "A," Ewing Parks' motion to withdraw a juror and declare a mistrial filed on February 2, 1964.

THE CLERK: It is not an exhibit in this case?

THE COURT: It is not an exhibit number.

MR. SILETS: May the envelope, your Honor, together with the document itself be marked with respective numbers? First may we have the envelope marked the next number?

THE CLERK: No. 248, your Honor.

MR. SILETS: Then the contents of the envelope with the following number?

THE CLERK: No. 249, your Honor.

MR. SILETS: Then, your Honor, may I offer these two documents together with the affidavit and motion itself?

THE COURT: I beg your pardon?

MR. SILETS: I believe there was a motion and attached affidavit filed. May I offer those also in support of my proof?

THE COURT: All right. I assume this is --, these are the matters to which you are referring.

THE CLERK: That will be the next number?

THE COURT: Will you check that, Mr. Silets, and see if that is what you desire?

MR. SILETS: I have never seen it.

(The envelope referred to above was marked for identification as Exhibit No. 248.)

(The contents of the envelope referred to above was marked for identification as Exhibit No. 249.)

MR. SILETS: Let me just show it to the witness.

BY MR. SILETS:

Q Mr. Spindel, is this the --, your affidavit to which was attached the exhibit, will you look at that?

A Yes, it is.

THE COURT: Will that not cause some confusion in the record, that being part of the court file also, becoming an exhibit?

MR. SILETS: Then may we just have the affidavit an exhibit? Make a copy of that?

THE COURT: All right, let's make a copy of the affidavit and file it as an exhibit if you desire to do so, so the court file will remain complete.

MR. SILETS: All right. Thank you, your Honor.

(The affidavit of the Witness Spindel referred to above was marked for identification as Exhibit No. 250.)

MR. SILETS: Your Honor, that does remind me of one other thing, although I'm appearing for a limited purpose with respect to the Defendant Campbell, with respect to the trial itself many documents were offered and marked in their original form.

I wonder if I may move now to have leave to withdraw the originals and substitute copies? For example,

Mr. Dorfman had some checks and some other original documents.

THE COURT: I think the best thing to do in that respect, Mr. Silets, would be to file a written motion as to what you desire to do and as to what documents you desire to replace and allow the Court to consider it and inspect the documents and tender with that, if you will, copies that you desire to file.

MR. SILETS: Yes, sir. Thank you. But for the purpose now of my inquiry, may I proceed with the original of this?

THE COURT: Yes, sir.

THE CLERK: That will be No. 250, your Honor.

MR. SILETS: Then may we offer these in support of our motion, your Honor?

THE COURT: Yes, sir.

End 14
15 fls

Q All right. Mr. Spindel, first starting with your affidavit, which is Defendant's Exhibit 250 that was executed by you and filed to your knowledge in support of the motion of Thomas Ewing Parks?

A That is correct.

Q All right. And attached to that was Exhibit 248 and 249, is that right, 248 being an envelope?

A That is correct.

Q And 249 being the contents of the envelope?

A That is correct, too.

Q Now, would you examine 249? Is that prepared in your handwriting?

A Yes, it is.

Q Now, after you prepared that, did you seal that in 248?

A That is correct.

Q And did you mark the outside of 248 with your signature?

A I did.

Q And did you indicate when it was marked and sealed, any date on there at all?

A No, I didn't mark the date on it.

Q All right. Other than for the slit at the top of the envelope on Exhibit 248 is that envelope in substantially the same condition as it was when you submitted it as part of

your affidavit?

A Yes.

Q Now, Mr. Spindel, the contents of the envelope being Exhibit 249, did you at any time disclose the contents of that envelope to anyone?

A No.

Q Now, Mr. Spindel, the contents of that envelope and the envelope was opened by the Court and the contents was made public. Prior to that time did you at any time furnish any part or any information contained in that to anyone at all?

A No.

Q All right. Now, examining Exhibit 249, that is right, that is the contents?

A Yes.

Q Can you explain to the Court--, may I look at it--, have you seen this, Mr. Neal?

May the record indicate that the government is examining Exhibit 249?

All right. Mr. Spindel, I notice some of it is typed and some of it is in your own handwriting. It is in your own handwriting?

A Yes.

Q Who typed the typed portion?

A I did. I started to type it all and being not

very proficient at it I went back to writing it by hand.

Q Now, would you explain to the Court just what that document is and what its contents represent?

A This is an exhibit transcript to the best of my ability from the actual recordings made of the FBI radio transmissions that I intercepted. This is verbatim as best as I could write it.

Q Now, have you analyzed that transcription?

A Yes, I have.

Q Before you took the stand. Do you have a copy of it or something that you analyzed?

A Yes, I have.

Q Now, to the best of your ability and according to your expert knowledge in your field, both of your surveillance, counter-intelligence in electronics, is there any information in there which indicates that some observation or surveillance was being conducted of Mr. Hoffa or Mr. Berke?

A Yes.

MR. NEAL: We object to that and move that that be stricken.

MR. SILETS: On what ground?

MR. NEAL: On the ground that the document will clearly speak for itself.

MR. SILETS: Not at all, Your Honor. He is qualified as an expert, he is entitled to give an expert

opinion.

MR. NEAL: An expert opinion on somebody who is being surveilled?

MR. SILETS: Your Honor, he made the transcript.

THE COURT: I think the report would speak for itself, wouldn't it, on that? Would it require any expert to--

MR. SILETS: (Interposing) Yes, sir, it will. As far as I can see it is not susceptible of interpretation in and of itself.

THE COURT: I will allow him to interpret it then if you desire to do so but not ask him what the document says.

MR. SILETS: All right. I would like for him to interpret.

THE COURT: Would you--

MR. SILETS: I am sorry.

BY MR. SILETS:

Q Would you interpret that document, sir, and indicate to the Court where, if anywhere, any references to an observation or a surveillance of Mr. Hoffa or Mr. Berke--

MR. NEAL: Let's be specific, the line, the page.

BY MR. SILETS:

Q Yes, will you?

A Well, the pages are not marked but there are

footage counts where the tapes are concerned. If you so desire I could assign a number from one--

Q (Interposing) Well, there is apparently--, I am reading over Mr. Neal's shoulder because I don't have a copy of this--, there is a number apparently on the side.

A Yes.

Q What does that represent?

A Well, if a page is marked "tape" and it says "8, 9" and down the edge "28, 30, 35" that is an indication of a meter on the tape indicating at which point that conversation started. Further through there we start, I believe at the top here is a full tape that runs eight hundred and some-odd feet, 871 feet, seems to be the end of the last transmission.

Q All right. Then if you refer to anything in particular it would have a number along side so Mr. Neal and the Court could follow it.

A All right.

Q All right. Now, would you respond to my original question?

A Would you repeat the original question?

THE COURT: Was there any reference in this with regard to any surveillance of Mr. Hoffa or his attorneys?

MR. SILETS: Mr. Berke.

THE COURT: Mr. Berke.

Q If so, would you interpret and read your notes and explain your notes?

A Do you want me only to quote where they are actually mentioning Mr. Hoffa or do you want my analysis of a group of transmissions because this is not chronological and--

Q (Interposing) Well, this is not susceptible of being interpreted without your assistance, Mr. Spindel, and that is what we are asking you for, to interpret your notes.

A Well, that is a difficult thing to do right at this moment because of the fact that there are a lot of transcripts here and I have to confine myself exactly to this exhibit A and--

Q (Interposing) I don't follow you.

A Well, there are, for instance, not being chronological in the transcript here, if I take a footage count 30 and quote something it may be at footage count 64 which actually clarifies what that meant.

Q Well, the footage count is a--, the time is in sequence then?

A No, it's the position at which this appears on the footage counter of the tape recorder.

Q Yes. But was the tape recorder running continuously?

15-7

A No, it was not. There are actually two tapes and a number of embossed discs and where an embossed disc was running out of time it was switched to tape and so far we only have here one tape and several discs.

End 15
Tk 16 fol.

Q Now, wait a minute, do you mean so far do you have any additional information?

A Yes, which I have put in as Exhibit B, and it is sealed to the Court and has not been divulged.

MR. SILETS: Do you have Exhibit B, Mr. Clerk?

THE CLERK: No.

THE COURT: I assume that is the envelope that was offered yesterday.

THE CLERK: Is that No. 244? The one offered by Mr. Schiffer?

MR. SILETS: What is the number, 244?

THE CLERK: No. 244.

BY MR. SILETS:

Q I hand you what has been marked as Exhibit No. 244, do you see your signature across the top and down the middle?

A Yes.

Q I guess wherever there is a fold and seal on it?

A Opening, yes.

Q And this has been filed with the Court on March 4, marked as Exhibit No. 244. Now, do the contents of this envelope relate to the matter in issue here?

A Yes.

Q Can you advise us of the contents of this envelope?

A I can but I do not wish to disclose that unless I am directed to by the Court.

MR. SILETS: May we call upon the Court, your Honor, to permit this man to divulge the contents?

THE COURT: Why do you want any order from the Court in that connection, Mr. Spindel?

THE WITNESS: Well, as I understand Section 605, the mere interception of communication is not violation of it. The interception and divulgence or use of it--

THE COURT: (Interposing) Well, the first exhibit you filed which you have just been referring to, Exhibit 249, you knew that was being filed with the Court in this lawsuit?

THE WITNESS: That is true.

THE COURT: And you expected it to be opened and used in the lawsuit, did you not, when you filed it?

THE WITNESS: Yes, it was submitted as an aid to the Court but it was not my divulgence.

THE COURT: Well, you filed it with the intention that it would be opened and published and used in the trial?

THE WITNESS: Well, that was not my discretion part of it. It was not for me to decide.

MR. NEAL: I resent that on behalf of the Court and I--

THE COURT: (Interposing) Sir, you filed it for

the purpose of being used in this trial, didn't you?

THE WITNESS: Well, to be helpful to the Court.

THE COURT: You intended to publish it in this trial and file it?

THE WITNESS: I did not intend to publish it.

THE COURT: For what purpose did you file it for?

THE WITNESS: I gave it to the Court. I felt that this was--

THE COURT: (Interposing) You gave it to the Court to use?

THE WITNESS: Not to use, not necessarily. This was filed--may I finish, your Honor?

THE COURT: (Interposing) Did you intend for it to remain a sealed envelope?

THE WITNESS: Well, this was a decision for the Court to make. This was--I believed I had information here which--

THE COURT: (Interposing) Which should be made open and available to the Court, didn't you?

THE WITNESS: Well, yes, to the Court because there was a violation of a court order and the constitutional rights of these defendants and I felt that it was my duty as a citizen and on behalf of justice to give this to the Court and bring it to the Court's attention just as I would in a normal case if I was a citizen without any technical

experience.

THE COURT: Well, proceed then with your duty as you understand it in this case.

THE WITNESS: The way I understand it? I am directed to open this, your Honor?

THE COURT: I am giving you no directions, sir. You are the one that stated what your duty is. Proceed in accordance with your desire.

THE WITNESS: Well, if I proceed with my desire, I will re-issue it to the Court and ask the Court to see if it is relevant and if it wishes to--

THE COURT: (Interposing) You ask the Court to open it and make it available in the record, is that your request?

THE WITNESS: No, to see if he feels it is necessary to find the truth of the matter in this case. This is not a decision I wish to make and I do not wish to disclose it.

THE COURT: All right. Gentlemen, proceed.

MR. SILETS: May I inquire of the Court if the Court is going to open it the way the Court opened the other document?

THE COURT: This is your witness. You proceed with him.

MR. SILETS: No. He was subpoenaed, your Honor,

by the government. I asked to call him as an adverse witness.

THE COURT: This is your witness. Proceed, sir. You are at liberty to proceed in any manner you desire with this witness with regard to that document.

MR. BERKE: If your Honor please, on behalf of Mr. Hoffa, we, of course, would like to except to the Court's ruling in this matter. We think that if the--

THE COURT: (Interposing) What has the Court done, sir? The Court has permitted you to proceed in any manner that you desire.

MR. BERKE: If your Honor please, I didn't have a chance to finish my statement. I think my statement would explain itself. We object to the action of the Court in not opening it because it is a constitutional right that this defendant has had violated upon him, we say it is the active duty of the Court to himself and see if there is anything in there that caused this defendant to have his constitutional rights violated. I think that the Court should actively see that their rights are protected and not idly sit by and just let it remain sealed. I don't know what is in it.

THE COURT: What authority does this Court have that any attorney would not have, Mr. Berke? Is not this Court under the law exactly the same as any attorney? If it is a violation of the law for any attorney to open this, is it not exactly the same violation of the law for this Court?

When did this Court ever have authority above and beyond the law?

MR. BERKE: Well, I think that the Court has more authority than an attorney, if your Honor please, because it is the duty of the Court to protect the constitutional rights of the defendant when it becomes apparent--

THE COURT: (Interposing) Is it a duty of the Court, sir, to violate the law in order to protect the alleged rights of defendants? If this is a violation of the law?

MR. BERKE: Well, if the government has violated the law, if your Honor please, and the government has deprived the defendant of his constitutional rights, I think it is more basic than the violation of the statute if the statute should be such and we are not conceding that it is a violation, but if it should be, we think the Court in an effort to protect the defendant's rights does have the right and did exercise that right in one occasion.

THE COURT: The Court exercised no right on one occasion. I had no idea that any counsel was attempting to proceed by devious means when the document, the original document was delivered to the Court. This was a document that was delivered to the Court by Mr. Schiffer at a noon recess. The Court had no idea that anything devious was intended or in regard to delivering that document in a sealed

condition. The Court opened the document thinking all the time that this was a document that everyone knew about. Like every other document in the lawsuit it was a document that was made available to both sides of the lawsuit. The Court has now discovered that something was intended by the party in delivering the envelope in that manner. The Court now understands that there was some attempt to put something over on the Court in regard to delivering a sealed document in that manner.

End Tk 16
Tk 16A fls.

And if you gentlemen will have your document, you may open it. You may do with it just as you please. It is your document. It is your witness and the Court is not restricting you in any respect.

MR. BERKE: If Your Honor please, if this man does not want to divulge it to us I have no way of knowing what is in that document but we think that if there is reason to believe--

THE COURT: (Interposing) Well, if this witness wishes to exercise any constitutional right he desires not to testify in the manner that would be self-incriminating he has the right to exercise that privilege.

MR. BERKE: Well, the only thing we want is to state for the record we are not here to argue with the Court, we do want the record to state that we think it is the duty of the Court where there is reason to believe that the defendant's constitutional rights have been violated, to be properly represented by counsel appears in the record or if there is reason to believe such that the Court should diligently pursue that even to the extent of opening up that envelope and see if such rights have been violated.

THE COURT: Sir, if you will cite the Court any authority for the proposition you have I will be glad to read it.

MR. SCHIFFER: I should like to state for the

record, Your Honor, there was no devious means used or practiced upon the Court. May I explain the circumstances? Certainly Mr. Neal was there in your chambers at the time this situation arose.

THE COURT: Mr. Neal was not in my chambers when it arose.

MR. SCHIFFER: When it was discussed. I was flabbergasted at the Court as Mr. Neal when the Court took the contents of that sealed document and made it a part of the court files for the Court's perusal.

THE COURT: What conceivable purpose? Do you mean to say that the Court can take these documents that you had filed as an exhibit to your motion--

MR. SCHIFFER: (Interposing) Yes, sir.

THE COURT: And not make them a part of the record, withhold them from the record?

MR. SCHIFFER: There was no question of that, Your Honor, suppose the document contained things concerning national security, no defense lawyer and no prosecutor can tell what happened--

THE COURT: (Interposing) The documents did not contain national security matters. Let's talk about what the document does contain.

MR. SCHIFFER: What the document contained was to assist the Court in determining violations of constitutional

rights. If the defense attorney has no power to do so to show to the Court proof and evidence of that kind of fact, then where does the justice in the case rise? In what way could defendants bring to Your Honor's attention violation of the law by government agents?

End 16A
17 fol.

THE COURT: Sir, you bring it to the Court just exactly like you bring anything else to the Court and that is by lawful and proper evidence.

MR. SCHIFFER: Your Honor, we tried to accommodate ourselves to the very practice you permitted the prosecution to do in this entire case with sealed documents. Certainly --

THE COURT: (Interposing) Now, Mr. Schiffer, we have been --

MR. SCHIFFER: (Interposing) If they have the right to sealed documents we have the same right.

THE COURT: There is no purpose in pursuing that type of argument.

MR. SCHIFFER: Well, Mr. --

THE COURT: (Interposing) There is absolutely no merit and you know there is no merit in it.

MR. SCHIFFER: I believe there is all the merit in the world, your Honor. I have never been accused of any devious means with the Court. I put it in the way it should go into the Court, that the Court should examine the violation of constitutional rights and, if true, then to take the proper action, but the Court saw the evidence and has done nothing to assist the defendants but this is not the only instance, your Honor. Every time the government has given you a sealed document we have been left without knowing what the sealed contents were.

Here is an evidence, an absolute evidence, in the first document, and I understand this man's testimony now that is what is in the sealed envelope now in Exhibit B is somewhat akin to what was in Exhibit A and I say to your Honor what other avenue is open to a defendant than to present it to the Court for the Court's own consideration? I don't know of any other way but it certainly wasn't devious means here. If there were devious means employed, the government employed them.

THE COURT: Now, gentlemen, gentlemen, it's obvious to any attorney that your argument must be wholly without merit. You are stating to the Court, for example, that it is a violation of law for this witness to tap wires.

MR. SCHIFFER: I didn't say that, Judge.

THE COURT: Well, this is in effect what you are saying or an illustration of what you are saying, you are telling the Court that you will not allow this witness to testify about tapping wires but it's perfectly all right for the Court to tap wires.

MR. SCHIFFER: No, sir.

THE COURT: If the Court can thereby reveal some violation of some constitutional right.

MR. SCHIFFER: There --

THE COURT: (Interposing) Just a moment, sir.

MR. SCHIFFER: Yes, sir.

THE COURT: Some constitutional right of the defendant. If this evidence is legally obtained, then you gentlemen can offer it, just like any other legal evidence. If it is not legally obtained, you are not going to have the Court to do that which you yourself cannot legally do.

Now, if it is legally obtained, then you -- and you think it is legally obtained -- you offer the evidence and the witness can testify.

MR. SCHIFFER: Your Honor --

THE COURT: (Interposing) But you are not going to ask the Court to do the work that you yourself are unwilling to do because you believe it to be a violation of law.

MR. SCHIFFER: No, sir, that is not my legal proposition. I better clarify the record here as to what we did say.

Number one, there is no such thing as a wiretapping involved here. Nobody --

THE COURT: (Interposing) The radio interception then. I used wiretapping because that has been used throughout the trial as an illustration of illegally obtained evidence.

MR. SCHIFFER: Your Honor, it just happened that the statute uses that in part of the title of the act but we are not speaking here of a wiretap, we are saying here that whatever this witness did according to his testimony is what

the government does and they say it's legal to intercept but they say that to intercept and divulge becomes a crime.

Now, I say to your Honor if in the course of preparing the defense for a defendant --

THE COURT: (Interposing) Mr. Schiffer, I asked you for authority on this proposition yesterday. Do you have any authority?

MR. SCHIFFER: Well, the government concedes that, Judge.

THE COURT: The government did not concede anything yesterday. I asked you yesterday for authority and you told me you would get authority and I'd like to have something besides Berger versus U. S., which is the case you have cited on every argument.

MR. SCHIFFER: On every argument that is precisely what they have violated in this whole proceeding and so I will stay with United States versus Berger because primarily I don't need any other case except United States against Berger to show the violation of the defendants' rights by the prosecutors here. That is a United States Supreme Court case. I think there is no court higher than that. They have laid down the rules and Berger is --

THE COURT: (Interposing) If you can cite the Court any authority for the Court revealing intercepted or opening intercepted radio communications, then the Court will

be glad to consider that. If you gentlemen do not believe that this is legally obtained evidence, then, as I say, do not ask the Court --

MR. SCHIFFER: (Interposing) Your Honor.

THE COURT: To publish matters which you yourself are unwilling to publish.

MR. SCHIFFER: Your Honor.

THE COURT: If you want this published, if you want this in the record, put it in the record.

MR. SCHIFFER: Your Honor, that is not our legal position. Evidently it has been misconstrued. We say that whatever this witness has obtained, according to his testimony, is legal evidence and the government does not contest that issue. If they want to contest the legal obtainance of it let them say contrarywise. The Department of Justice has said it is no violation of law to intercept. They pointed to the peculiar language of the statute in Section 605 that you must intercept and divulge, but under these circumstances I ask your Honor, and it's a case of rather novel impression that where the government itself has violated the constitutional rights of the defendant that defendant has an absolute guaranteed right, if one is to read the Constitution of the United States, to at least show that the government itself engaged in a form of outlawry and that he has a right to throw himself upon the protection of the Court to protect

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They commenced the surveillance before the case itself even started and so I say to your Honor in all good faith, it isn't a question of trying to put something over on the Court. There is no recorded incidents that we have been able to find where with government outlawry that there has been an avenue pointed out by either an act of Congress or by decisions saying to a defendant, "Well, if your rights have been violated constitutionally you cannot present that to the Court."

I know of no such theory because if there were a theory of law susceptible to us we have no Constitution of the United States, there is no guarantee in it. We have no one else to give it to except to your Honor and so when you say "devious means" that is the last thing in the world anybody can conceive of. You are--

THE COURT: (Interposing) Why didn't you bring the document into open court and tender it in open court like every other document?

MR. SCHIFFER: Because the government and your Honor permitted the government to give you all kinds of sealed documents which we didn't see.

THE COURT: The government gave the Court no sealed documents other than in open court. The government has never delivered a single document to this Court in chambers.

MR. SCHIFFER: I am not speaking about what they did in chambers or in open court. The fact is it remains--

THE COURT: (Interposing) You reported the other morning on this second document, you wanted to come back and deliver that in chambers.

MR. SILETS: Certainly.

THE COURT: The Court refused to permit you to do so, having seen what was practiced on the previous occasion the Court refused permission to do that.

MR. SCHIFFER: Except for this, your Honor, we have no other way of delivering anything to the Court to show your Honor a complete invasion of the constitutional rights of Mr. Parks and the other defendants. There is no other way to give it to your Honor.

THE COURT: Well, now, gentlemen, you will have to argue much longer if you seek to persuade the Court that that was not a devious practice.

MR. SCHIFFER: Well, your Honor, may I state for the record that I personally most respectfully resent the imputation of doing something by devious means that I have practiced in good faith with this Court from the very beginning of this case, that at no time have I attempted in any fashion to do anything with this Court which an officer of the court should not do. I have certainly strenuously objected to the Court being used by the prosecution at their behest and every

objection they have made to what would help the defendant, it is much their obligation to help the defendant as to prosecute them honestly, I have resisted the attempts of the government in every instance to use the Court against the defendants. That is my oath, that is my obligation, but it has been done with good faith with your Honor.

I am here defending a man accused of a serious crime. Must the defense counsel sit, not even object, not to voice his objections, not to say why he feels his man is being put upon? It hasn't been in any argument with your Honor. It has been the tactics used by the government here, but that is my responsibility and I must live up to that responsibility.

Many bar associations have said if a lawyer in a trial did less he should be disbarred. I follow that and I believe it.

Now, with this witness, your Honor, maybe he should be excused to consult with counsel as to what his position is insofar as this exhibit is concerned and let him then take any procedures he wants to take for himself alone and I say that again is offered in good faith, your Honor.

THE COURT: Well, you brought him here to Chattanooga from New York City. You can advise him any way you desire.

MR. SCHIFFER: Well, my point is simply this,

your Honor, that I brought him to Chattanooga when I saw myself being shadowed and surveilled and my telephones, a third party listening in on my telephone. I am going to tell you this, your Honor, I certainly owed it to my client to make sure my man wasn't going to be trapped or framed.

I said that from the beginning of the case. This is not an afterthought. Throughout this entire case I said the whole theory of the government here is a frame-up and I say that when that kind of activity is indulged in I certainly have a right by my client and by myself as an attorney and a private citizen to make sure that my rights are not being invaded, especially while I am defending a man charged with a serious crime that I have every right in the world to bring him down from New York to see if those things are going on and if they are going on, I told him, "Tell it to the Court."

This is the only forum I can complain to. Who am I going to complain to, to Mr. Neal?

THE COURT: All right. All right. Let's proceed.

BY MR. SILETS:

Q Is it then your intention not to disclose the contents of 244, Mr. Spindel?

A Well, I do not wish to disclose it unless I am ordered to, however, I would like to discuss this with

counsel and if I could have a recess I will advise the Court of my decision.

THE COURT: All right. Well, let's adjourn until 1:30 then, gentlemen.

MR. NEAL: Before you adjourn may we file and I have served copies on counsel a motion to quash the subpoena, forthwith subpoena duces tecum, issued for Mr. John P. Mohr, Assistant Director of the Federal Bureau of Investigation, Washington, D. C., and I filed the original with the Court and attached thereto a photostatic copy of the subpoena.

THE COURT: All right. Let's adjourn court until 1:30.

(Thereupon, at 11:55 o'clock A.M. court was adjourned for the noon recess.)

End Tk 17A
Tk 18 fls.

AFTERNOON SESSION

1:30 O'Clock P. M.
March 5, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

THE COURT: Gentlemen, I have reflected upon the problem of evidence that we were confronted with prior to lunch and it appears to the Court that the proper procedure in this situation is that--, well, first, the Court wants the defendants to have all of the admissible evidence in the record that they desire to place in the record. The Court will certainly instruct the witness to answer any question that he is asked the same as any other witness. If the witness desires to exercise any constitutional right with respect to answering any question, he can apprise the Court of his requests in that regard and the Court will consider the appropriateness of requiring him to answer under those circumstances. But otherwise I think the witness should answer all relevant questions that may be asked him.

MR.SILETS: May I proceed, Your Honor?

THE COURT: Yes, sir.

MR. SCHIFFER: Would you indulge us just one moment, Your Honor?

THE COURT: Yes, sir.

BY MR. SILETS:

Q Mr. Spindel, I'm still somewhat at a loss, are you willing to open and divulge the contents of Exhibit No. 244 without an order of the Court?

A No, I do not wish to divulge or disclose the contents of this unless directed by the Court to do so.

Q Well, let's proceed to the other document then, the one that is open, what is the number on that one?

A That is Exhibit No. 249, Defendant's Exhibit.

THE COURT: What exhibit was the witness referring to originally? His first answer?

THE CLERK: No. 244, Your Honor.

THE WITNESS: Exhibit No. 244. It is a sealed envelope.

BY MR. SILETS:

Q And the opened one is what number again? I am sorry I didn't catch that.

A Defendant's Exhibit No. 249.

Q All right, now on the front page of this there is an aster'sk alongside of what is marked as Line 30, and I think I saw somewhere else there are other asterisks. What does that indicate?

A That was a notation that I placed on this page indicating that this particular statement had reference in regard to surveillance.

Q Well, would you then read the places where there

are asterisks.

A It is marked 30, which indicates the position of this conversation on the tape.

Q And the message, is that the same we got one time before last week or the week before? Is that the same number? Do you recall?

A No, I don't. I don't have my book and, uh, has got it.

Q You say that relates to the surveillance?

A Yes. That is an indication that they had picked up the same plate number as he states here one time before last week or the week before.

Q What is the next asterisk that you have?

MR. NEAL: Your Honor, that is not an interpretation in my understanding. All he is doing is saying what the language says.

THE COURT: Well, you may cross examine him.

MR. NEAL: Very well.

End 18
19 fol

A Now, I notice a cross here next to 280 and I do not believe that to be my marking on this page.

Beginning past mark 338, that is, in between 338 and 345, I have a mark next to a statement of a radio transmission from an FBI car which reads, "I think I can develop a double agent on that deal out in Tomlinson's" and I have the word "phonetic."

Q That is your own word?

A The word "Tomlinson" is phonetic and I inserted the word "phonetic","there if it gets necessary 10:4." "10:4" meaning, "Do you understand?" or, "Is that correct?"

My next mark is at 377. Message reads, "It appears to me from what I have seen the first page, uh, what this man, uh, would be in position to say. Is that what you are talking about?"

Q Just a moment, sir, apparently this is a matter taken out of context. How does that relate to the surveillance?

A Well, I cannot answer that without possibly affecting the divulgence of Exhibit B.

Q All right.

A The next mark is at footage count 470 and it reads, "3671 is 55N and can he drop to me on watch?"

Q "Can he drop to me on watch." I am reading from Mr. Neal's copy of this, it says, "Can he drop to me on watch."

Is that right?

A That's correct.

Q Now, will you explain what that means?

A Well, actually that was the beginning mark of the following conversation which relates to batteries that are used in walkie-talkies and I can continue reading that.

473 reads,"Will let me know--will let me know when he gets off if he can talk to," and the rest was unintelligible, and the last word was "watch."

At 476 it reads, "67½-volt ones and said they were all either fair, some of them fairly good, some of them good but none of them in tiptop shape. We haven't had any new ones in a long time and instead of taking any out of the supply room up there which are--would be in the same shape as the supply we got, I strongly recommend that we buy at least a dozen, that would give a full set for each of the T units."

Q What does that mean?

A "T units" standing for talkie units or walkie-talkie units, "with a set of spares. Would you check with 937 as to the exact type and buy us 12 out of Empress", again phonetic, the word "phonetic" being inserted by myself in parentheses, "and mail it to us."

482 reads, "For the handy talkies, walkie-talkies."

And the answer, "Thank you."

Q Mr. Spindel, a walkie-talkie is a unit by which readio communication can be had by someone walking on the street?

A That is correct.

End Tk 19
Tk 20 fls.

The next mark is at footage count 520, and it reads: That might be very pertinent so far as, uh, whether they load and what they load and so on. 10:4. Answer: 10:4. We'll be watching.

Q How does that relate to the surveillance?

A Well, this is at a time that may I go back to just before that to identify it?

Q Surely.

A The footage count 510, reads: B2 to 317.

Q Now, excuse me, Mr. Spindel, we have had testimony from FBI agents that said 317 was headquarters here in this building and B2 represented an agent in a building. Now would you continue?

A All right. B2 to 14 and at footage count 514. Go ahead B2. The transmission reads: Say, what is the tag number on that vehicle? I am almost certain in fact we are certain the package vehicle is out in front by the street entrance at the present time.

Footage count 517 reads: You mean the Nashville vehicle? That is 10:4. It just pulled in. I don't have it in front of me. I think the last two digits are 99. Is that 10:4? Answer: That is affirmative. Yeah. This is it. It is parked out here now.

And then it is followed by this other transmission to observe what is being loaded reads: 520, that might be

very pertinent as far as whether they load and what they load and so on. 10:4? 10:4 we'll be watching.

Q Under that I see a 525 is another asterisk.

A That relates to actually it should be next to 530 which reads: 14 to 317 and 14 to B2. Footage count 534, B2, is he loading up? Answer: Negative. No one is in the vehicle. We are going down South Broad. We'll be on down this way in case anything develops. I want to check with 317 to see if they want a spot check or anything.

Q What is next?

A The next marking?

Q Read the next one.

A 537 footage count?

Q Yes.

A It says 14 to 317 and I have it marked here for my notation that this also is from Disc M.I.S. tape Carl, this is 7. The big boy just passed again. Jack had copied this same plate number.

MR. NEAL: Just a moment, just a moment, just a moment.

BY MR. SILETS:

Q Says the boy. Read it again. Doesn't it just say the boy?

A I am sorry. Carl, this is 7. The boy just passed again.

MR. NEAL: The boy?

THE WITNESS: The boy.

MR. NEAL: Not the big boy?

THE WITNESS: The boy. Correct. Jack had copied this same plate number down before. It is 4U-8888. Yeah, that is 10:4. That is the same one that was by there while you were out. Try to keep some time on that. I think the other one Jack I recall was 805. 10:4? And then it says 7 with dashes indicating the rest was unintelligible. Following that I think you ought to change locations there. They might be trying to set you up so that they can say the defendants are being surveilled or something.

I notice one here that is definitely on my copy marked but somehow I missed marking it here. May I include it?

BY MR. SILETS:

Q Surely. What footage count?

A This comes from Disc T.H.A.A. mark car load side one.

At the 14 minute mark. B2 to 14, 14 they are proceeding to the vehicle now quite an entourage. Will copy. Parentheses are my own next to it which states: This means photograph. Then I have marked here pause. Answer: 10:4.

End 20
21 fls

The next mark that I have at footage count 697 message reads, "Well, then when these people first came out, that is the four of them originally approached this car, the two we cannot identify are one was wearing glasses and one was partially bald, so it appears that," and then it reads, 698, "those two could not identify were not the package. Is that 10:4?"

699, "O. K., the one that was bald, was he a slightly built fellow? He was short but rotund."

700. "No, I was thinking I might know who that was but I don't make him from that description. The crown of his head was bald. He wasn't completely bald. He had hair on the sides and a little hair on the top but sort of like a monk with a crown." And then I have dashes indicating something missing and the last word is "bald".

701. "No, that wasn't the subject."

702. "JI, this is WLS. I didn't hear all of that but I would be inclined to think that this is the subject. He is definitely thinning on thetop of his head."

704, "Well, I took an awfully good look at him out there and I would consider--, I wouldn't consider him bald. Of course, I didn't look down at him from up above but I didn't notice any baldness. He might be but I wouldn't consider him bald."

707. "Yea, Billy, this fellow had a distinctive

bald spot on the crown of his head and somebody--, another car interrupted at this point and says, "So does Spindel." He is a big manish looking guy, hump shoulders, heavy set, right on the top of his head he is bald. He has got a bare spot."

At 709, "Well, then that sounds like our man that originally got in the back seat of the car when it pulled away."

Q Just for the record, just a moment, Mr. Spindel, do you have a bald spot on the top of your head?

A Not that I know of.

Q Go ahead.

A 709. "Did he come back? Answer. That is negative."

Now, here is one that again is marked on my copy but not here at footage count 725, the transmission reads, "This is B2. The packages automobile was first being observed--, was first observed being loaded at 4:55 and was then observed again back at the hotel at 5:10 minus one individual. I don't believe that gave them enough time to get out to the airport."

Footage count 728, "No, they couldn't have gone to the airport in that length of time. Uh, I am sure of that."

729, "They may have changed hotels. Answer, that

is entirely possible."

At footage count 765--

Q (Interposing) Wait a minute, Mr. Spindel, you are going to 765. Will you look at 759? It says, "Well, did you decide that, possibly that the package did not come back, the original package was at--, was that--, the one that did not come back to the hotel?

A That is correct. At 761 the transmission reads, "In light of the more current description that is entirely possible, un, the vehicle is presently parked in front of the 11th Street entrance and if you like we'll sit here until they do move it.

Q Now, a little further at 765 you were going to read that.

A Yes. "Say, Bill, the two occupants in that car were the man and the ex-boxer."

Now, next to the word "the man" my parenthesis show the word "Hoffa" and that is my insertion, and after the words "the ex-boxer" I have a parenthesis "O'Brien".

MR. NEAL: Do I understand, for clarification, you put the word "Hoffa"?

THE WITNESS: Have put the word "Hoffa" in next to the words "the man".

MR. NEAL: You wrote it?

THE WITNESS: And next to the word "the ex-boxer" I put, inserted in parenthesis, indicating it's my insertion, the word "O'Brien".

MR. NEAL: I see.

BY MR. SILETS:

Q And as far as the phrase "ex-boxer", is there anything else in there or anywhere here that indicates "ex-boxer" meant O'Brien?

A Well, I find one thing here and I am looking for possibly more and it's stapled and I can't the identification point on it, it's one of the typewritten sheets, it says, "Next to one, Mr. H. and company just returned. Was that husky boy with him, did you recognize him? Who with him? O'Brien. I don't think so, or words to that effect."

Number two, "Mr. H. and three others getting into a white Pontiac, which was parked on the street up from Market Street, words to that effect."

MR. NEAL: Who put the "words to that effect" on there?

THE WITNESS: The actual message I can verify that. I put that on myself because on this particular transmission it was poor but I do have another recording of the same thing and I would be glad to check it, I think it is within here.

BY MR. SILETS:

Q Look at 790. I am sorry, Mr. Spindel, I am in error. Disregard that.

End 21
22 fol.

Mr. Spindel, if you are having some difficulty, we will skip that for the moment. Will you go on to the next reference?

A What is the last number?

Q It is pointed out to me that there might be something pertaining to the surveillance in Line 741.

A No, I don't see it.

Q Well, go on to the next asterisk then.

A No. 778 message reads: Twenty-three answering. Are you aware that those people have been gone for some time? Are you not? The ones that you previously mentioned? 779, yes, I sort of lost interest in view of this one. Okay.

Count 790 reads: B2 to 14 and 23, the ex-fighter just came out with two unidentified BMA's. He got into the car. He is not moving as of yet, and the other two individuals separated and walked around the corner are headed north on Market on foot.

At 794 the message reads: Twenty-three, you were just photographed.

Footage Count 795: That is 10:4.

Footage Count 796: There is a guy standing against the hotel with a camera and as you pulled up to the light he stepped out behind your car and photographed your plates. The ex-fighter just got out of the car and walked back into the hotel.

Footage Count 797: 10:4, I saw it.

Footage Count 798: What about the other guy walking down the street, did you get a good look at him?

Footage Count 800: Billy, are you referring to the camera man as far as descriptions?

Footage Count 801: I thought you said two walked around the corner.

Footage Count 802: Oh, that is 10:4. They had their backs to me.

And then I have lines indicating unintelligible portion and then it reads: Well, relatively young white males look to be late twenties. I doubt very much if I could recognize them. They had their backs to me. (Us) In other words, indicating that the word to me might have been us.

Footage Count 804: 10:4.

Footage Count 803: 10:4.

Footage Count 804: Did you happen to recognize the photographer?

Footage Count 805: Negative. 801 was the package, of course. Let's see that, uh, the ex-pug is just coming back down toward the car. Getting in a car again here.

Footage Count 807: He is getting all ready to drive away now.

Footage Count 808: He done wound it up.

Footage Count 809: Keep me posted, I'm over on

Ninth and Market, I guess it is.

Footage Count 810: 10:4. Also on 810, 315 could you stand by just a minute? 811, the S-vehicle just proceeded across Market going west on 11th.

827: This is B2, as you probably know the vehicle the big boy (my personal notation is the word Hoffa) just got back to the hotel. Evidently he parked the car. Answer, 10:4.

Q What is the date of this? Can you tell us? Don't take the exhibit apart.

A It is marked here Thursday. It appears on the page Thursday, A indicating afternoon. At the Footage Count 801.

Q That would be Thursday, February 6?

A That's correct.

Q Now, at this time where were you?

A I had not left my hotel room from Wednesday or Thursday. I never--

Q (Interposing) In your testimony you said you hadn't gone out until the following Monday, the 10th?

A That's right.

From the evening of Tuesday, February 4th, approximately 5:30 until Monday the 10th, I did not leave my hotel room.

Q All right. Have you read all the asterisks now?

A No. Footage Count 831 reads as follows: There are a few fellow that are going in the same direction so that Mr. Big and his, uh, necessary assistant.

Q His what assistant?

A He says that Mr. Big and the word, uh, his necessary assistant, so I don't think you want to be anywhere around that lot right now.

My next mark indicates, Footage Count 865: Few dashes indicating the first few words of this transmission are unintelligible. I just don't want them to photograph that coming out of there if you think you can handle that without that go right ahead. I should read the paragraph before this to make that have meaning. I just marked that particular thing because it had a meaning to me.

Q Go right ahead.

A Starting at Footage Count 853: This is B2. It looks like everyone has gone, uh, unless you have anything to the contrary we will close shop.

Footage Count 855: That is 10:4 with 223.

Footage Count 856 reads: B2 to 114. What do you think? Do you think you ought to pull this gear out?

Footage Count 858: The message is unintelligible. And then it reads: The big guy came out with the entourage and they looked like they all got back--unintelligible. In other words, I am sure if you drove by there you would find

it wouldn't be in the lot. Footage Count 863: Unintelligible.

Footage Count 864 reads: I really don't know what you got in there.

Footage Count 865: --indicating the first part of the message missing. I just don't want them to photograph that coming out of there. If you think you can handle that without that, go right ahead.

Footage Count 866: B2 and it is unintelligible. The rest of the message reads, "Can we meet you somewhere?" Following that.

At Footage Count 869: 10:4. We don't have any wheels. I will tell you if you want we can reach you at 317. Now, my original typewritten copy here does not have marks. I notice--where there were marks and I cut the edges of the paper to make it conform to this size.

End Tk 22
Tk 23 fls.

Q Anything that relates to the surveillance?

A I already read this page here which relates to Mr. O'Brien.

Q All right, Mr. Spindel. Just one other question. All right. Go ahead, sorry I interrupted.

A On the following page, "Mr. H. and company just returned," and there's a dash there indicating a weak unintelligible transmission.

Next it reads, "Was that husky boy with him? Do you recognize him? Who with him? O'Brien. Uh. I don't think so, 10:4."

Then it reads, "They call -- go ahead -- Mr. H. and three others getting into a white Pontiac which is parked on the street up from Market."

Now, these typewritten pages come from a disc which is a duplicate of some of the footage count on this tape and I will try to avoid duplication of anything I have read previously.

There is an addition on this particular sheet from a previous conversation, so to keep the context proper I will read it, "See if I can get the plates. The plate on it is 4U-8888," and this has reference to the time that a Mr. H. and two other individuals got into a white Pontiac.

And the next transmission says, "That sounds familiar. I believe that is one of those we had before."

The next transmission, "Yeah, I think that is one of the cars rented to the Teamster local. Campbell. Mr. H. sure was jumpy. His head was like a radar strip. Answer, it should be. Yeah. Four, eight men is that you saw -- do they remind you of anybody? Yeah. Reminds me of old man D. Is it? Uh. From Chicago. Yeah, just what I saw it looks like there are -- I told you that other electronics man we've been talking about. Question mark. Oh, no, this guy was, uh, I saw him from the front, tall and, uh, looked at him through the binocs. He is much too old, much too old. He, uh, his gray hair and all, he looks like the father of Dorfman."

Q Mr. Spindel.

A May I continue?

Q I am sorry.

A One page. Again here we have a portion where the transcript follows up from the tape and it doesn't -- it does include a section that was not on tape. Starting with the transmission, "They are going to have to come up with something. They'll probably never find us at Edmund's. You got a real good idea. Let's rendevous up there and talk it over. How late are they open? I don't know, Paul, I guess about midnight. See you over there in a little while. Did the little man have a dark suit on? That's affirm. Yeah, he just came out of Eleventh and he was walking down, just

approaching the Eleventh Street entrance. His companions were with him. I think he saw," and then I have a line indicating unintelligible.

"23 to 14. Go ahead. I was just cruising. Do you want me to do anything? I passed, the car's still there, I just checked."

Do you want any reference made to what I believe to be Mr. -- one of the defendants?

Q Yes, sir.

A All right. Here is the radio transmission which reads, "23. Are you trying to transmit to me?"

Q Where can we locate this?

A This is the typewritten page, the last page that was on the original exhibit.

Q All right. Go ahead.

A "23. Are you trying to transmit to me? Answer, not me, chief. What is all that noise? Answer, I think we are tuned in. That's probably Bernard. Hiya, Boyney, Bernie, or 317. Make the mistake," unintelligible. "Yeah, that is what I was talking about. Well, he said he would be here earlier in the afternoon, that he was," -- unintelligible, "The unit to see if it were transmitting but we were not. Ha, ha. Maybe there is a hanky-panky. Uh. Could be. Hiya, Bernie. Doing fine. Making lots of money working for Mr. H.? He's a good boy. Go home, Bernard. And somebody answered

I plan to in the morning. Say. Were you able to hook me up with 584 and 445."

MR. SILETS: Mr. Neal has been kind enough, your Honor, to allow me to use his copy.

BY MR. SILETS:

Q Mr. Spindel, it seemed to me somewhere in here the name "Walter" was mentioned. Do you know where that is?

A Yes, I know approximately where it would be. That's on, let's see if I can find the identification. Shall I read it?

Q Where do we find it?

A It's on a short page on a typewritten sheet, it's one, two, three, four, five, the sixth sheet from the last page.

Q Oh, yes, I have it. Yes, would you read it, sir?

A "301 call. I am in the office. 317, 24, 24, office." I believe this was a typographical error. It says, "36."

Now, there's a sentence missing prior to this which I have. Well, anyway, you asked for the word "Walter," it's here.

"It couldn't have been any better. He overruled the motion to suppress his testimony and ruled that the defense had no right to examine the notes of our Walter."

Q There's a reference to Mrs. M. C.?

23-5

A 317, 315, "Call me back. I want to talk to Mrs. M. C. again for just a minute. 10:4. 315, 317, 315. About one minute more, call us right back. 55 just came in and he wants to talk with him."

MR. SILETS: That's all, your Honor.

THE COURT: All right. Any other examination of the witness by any defendant? If not, is there any cross examination?

MR. NEAL: Yes, there is, your Honor.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Spindel, do I understand now that you have gone through the part of Exhibit A or what now is Exhibit 249?

End 23
24 fls

A Defendant's Exhibit 249, that is correct.

Q You have gone through and you have read off a part of Exhibit No. 249 that relates to what you say is surveillance.

A Well, part of it.

Q Pardon me?

A Part of it.

Q I thought you were reading off in there what related to surveillance.

A I was asked to read off what was marked, what sections I had put a mark next to which I believe to be surveillance and this relates only to the actual words as they were transmitted which would indicate surveillance.

Q Yes, so you are talking about what in your opinion indicates surveillance, is that correct?

A Well, there are a lot more in here that would indicate surveillance but I cannot go into it. I have only marked the areas that is direct in my opinion direct wordage.

Q What do you mean, there is more in there you can't go into it?

A Well, as I said that this exhibit here which is sealed--

Q (Interposing) I'm not talking about that exhibit there, I'm talking about this exhibit No. 249.

A Direct wordage that is all.

Q That is all, Exhibit No. 249 that relates as to

what you say indicates surveillance?

A Well, that I had marked at the time and I believe, yes, there is more if you care I will read it.

Q Pardon me?

A There is more in here that I feel would show surveillance but these were the important highlights that I marked here.

Q I thought you were proposing to read and I'm sure counsel asked you--

MR. SILETS: (Interposing) No, I didn't, Your Honor.

BY MR. NEAL:

Q --read what in your opinion indicated surveillance.

A It was my understanding that he started out by saying there are certain marks that I placed on the left side of the page.

Q And didn't you say--

A (Interposing) May I finish, sir? He asked me what the marks were where I said at the time that I transcribed this.

Q Yes.

A I made these marks myself for my personal use indicating the point where I felt the wordage definitely expressed indication of surveillance. However, there are a lot of other words which I didn't mark in other sentences

and other transmissions which I feel and I believe would show on the overall basis of surveillance.

Q Well, you marked what you thought at the time indicated made the strongest indication, is that correct?

A Yes, it was for my own reference for quick location.

Q And you have read those off in Exhibit No. 249?

A That's correct.

Q All right, sir. Now, when were you called in New York and asked to come down here?

A Saturday, February 1st.

Q By whom were you called?

A Mr. Schiffer.

Q Mr. Jacques Schiffer sitting over here?

A That's correct.

Q Would you point him out please?

A There is Mr. Schiffer.

MR. SCHIFFER: Conceded.

MR. NEAL: May the record show he is pointing out Mr. Jacques Schiffer.

BY MR. NEAL:

Q He called you and talked to you on the phone?

A Yes.

Q Did you recognize his voice?

A Yes.

Q What did he tell you?

A He asked me if I was available to come down to Chattanooga to do a counter-survillance to determine if there had been any eavesdropping and actual surveillance of the defendants and their attorneys and their staffs.

Q What kind of equipment did he ask you to bring?

A He didn't ask me to bring any specific equipment. He asked me to bring whatever equipment would be necessary to do my job.

Q To do your job?

A Yes.

Q Did he indicate to you what he expected you to do?

A Well, I asked him what he felt was the most obvious thing or place that the or the type of surveillance that the government or whoever would be surveilling him would have and based on his statements I would decide what equipment would be necessary to do it more or less the surveillance for physical inspection and for electronic inspection are pretty basic. You have to use a certain amount of equipment at all times.

Q Did he see you when you got here?

A When I arrived here he saw me Monday evening.

Q Did he talk to you?

A Yes.

Q What did you say at that time?

A I said to him that I was continuing the physical inspection and that I would be quite sometime working late, working quite late on it.

Q Did he see your equipment?

A At that time, no.

Q What room did you have? You had a room in the Patten Hotel?

A Yes, I used a room at the Patten Hotel.

Q What room did you have?

A 803.

Q 803?

A Yes.

Q Was he in your room?

A At any time?

Q Any time.

A Yes, about a week ago was the first time that he came to my room.

Q Were you ever in his room?

A Yes.

Q Have you been paid for this job yet?

A Not yet.

Q Are you going to be paid by Mr. Parks, the Defendant Parks, is that your understanding?

A My instructions are to determine my bill and my expenses and submit a bill to Mr. Schiffer.

Q Mr. Schiffer?

A Yes.

Q I see. Now, you have worked--, by the way, going back, on Exhibit No. 249 you were doing this--, this was all done or heard by you in your hotel room. Is that correct?

A That's correct.

Q What kind of equipment did you use?

A For the Exhibit 249?

Q Exhibit 249.

A That particular receiver was a National H.F.S. Super regenerative receiver.

Q And you worked that from your room?

A Yes.

Q So you are not testifying about what you saw? You are testifying about what you heard while you were in your room at the Patten Hotel, is that what you are testifying about?

A In regard to Exhibit No. 249. I also testified on my arrival of personal observations and surveillance.

Q That you saw, that you saw some FBI cars?

A Yes.

Q And you say, are you saying now that you know that FBI cars use certain antennas?

A Yes.

Q You understand, Mr. Spindel, you are under oath

up there.

A Yes, sir.

MR. SILETS: Objection, Your Honor. Under the veil of threat.

MR. BERKE: He knows he is under oath.

THE COURT: Sustained.

BY MR. NEAL:

Q I want to apprise you when you say you know something you are testifying as a positive fact.

A That's correct.

Q You know that that is true?

A Yes, sir.

Q That the FBI agents invariably have cars with a particular antennas?

A I said the cars that I saw had fantom antennas.

Q And you say that they were FBI cars because they had so-called fantom antennas?

A Yes, sir. The fantom antenna is occasionally if you recall my testimony--

Q I don't recall about your testifying.

A Well, I am testifying now, do you want me to say something, if you want me to say something, tell me what you want me to say.

Q I want you to answer my question.

A I am trying to if you will allow me, Mr. Neal.

Q You answer my question, Mr. Spindel.

A Will you repeat the question?

Q Yes, sir, I will repeat the question. Are you saying that all FBI cars have what you call fantom antennas?

End 24
24A fol.

A I said that any car containing antenna of that type, well, I would say that 90 percent of the FBI cars that have radios in them are using phantom antenna. I have seen a few, not in this part of the country, that have a different type from the old type. But here they were all the amphonel-type connector of the cars that I saw.

Q All right, and you are saying that you know that the cars you saw when you came in was an FBI car?

A Yes.

Q And you know this was an FBI car?

A Yes.

Q And you know it because of this antenna that you described?

A Yes, sir, plus the fact that the two men were sitting there and I have seen them on three different occasions.

Q Have you seen them here today?

A I saw one of them. Had the pipe. And he was in that cream vehicle in front of the Greyhound bus terminal and there was a short, thin fellow with sort of broad shoulders.

Q All right.

A Then when I was here at the courthouse this same man who had the pipe followed me out and I turned and walked up to him and he quickly took off around the corner, went around the block. I walked up to him again. He took

off again. The other man was sitting right outside this courthouse in a green car. He turned the corner and took off with him because I stood there and looked right at him.

Q Let me have the pictures, Mr. Spindel, dealing with surveilling you.

A Yes, sir.

Q They were surveilling you?

A Yes, sir.

Q And you arrived in town on February 3, is that correct?

A That's correct.

Q Did you bring any wiretap equipment down with you?

A No.

Q Have you done any wiretapping since you've been here?

A No.

THE COURT: Sir, did I understand you that you did check the telephone lines?

THE WITNESS: Within the Patten Hotel itself.

THE COURT: And did I understand you to say earlier that the equipment you used to check the lines can also be used to tap telephones?

THE WITNESS: Well, it could be misconstrued because the standard telephone and the set I use to check a

cable that is used by every telephone repairman as a listening device as well as talking device and before you check a line you are supposed to keep the button on monitor to make sure the line is not in use.

THE COURT: All right.

BY MR. NEAL:

Q Did you have anything to do with taking these pictures, sir?

A No. Absolutely not.

Q All right, sir, I want to show you, I want to have something marked here and I state for the Court these have been introduced to the Court in support of their motion alleging surveillance and I would like to show one of them, would like to have one of them marked as the next exhibit.

THE CLERK: No. 251, your Honor.

THE COURT: That is a photograph from what?

MR. NEAL: It is a photograph from --

THE COURT: (Interposing) Just an exhibit to the motion, is it not?

MR. NEAL: Photograph exhibits "A" through "H."

(The photograph referred to above was marked for identification as Exhibit No. 251.)

MR. SILETS: Can I take a look at the one there Mr. Sheets just passed a message to Mr. Neal about?

MR. NEAL: I'm going to ask him some questions

about it.

MR. SILETS: I would like to see the one Mr. Sheets passed to you, Mr. Neal, is this it?

MR. NEAL: This is the one I took back there to him.

BY MR. NEAL:

Q I am going to ask you, I'm going to show you Exhibit No. 251 and ask you if that is an FBI car there?

A No. That antenna is not an amphonel antenna.

Q Do you know whether that is an FBI agent in that non-FBI car?

A No, I don't.

Q Have you ever seen that man before anywhere?

A I don't recognize him.

Q Do you know why that photograph, for example, was submitted here in court?

A I wouldn't have any idea.

Q Did you say that is not an FBI car?

A No, based on my observations of the antenna, that is not an FBI car. May I have the picture?

MR. SILETS: I gave it to the Clerk, Mr. Neal.

MR. NEAL: Would you mark that, please?

THE CLERK: No. 252.

(The photograph referred to above was marked for identification as Exhibit No. 252.)

24a-5 Spindel - Cross

BY MR. NEAL:

Q I am going to show you another picture of a man and I assume the defendants say is an FBI agent because it was submitted in support of their motion alleging surveillance, a picture of a man smoking a pipe, have you ever seen that man before?

A No. That is not the man that followed me and that is not the man I had reference to.

End 24a
25 fls

Q Do you know whether or not that man is an FBI agent?

A I have no idea.

Q Mr. Spindel, you have worked for Mr. Hoffa before, haven't you?

A I work--

MR. SILETS: (Interposing) Your Honor, I object to the question. He has not testified that he is working for Mr. Hoffa now and that draws a wrong conclusion based on a false premise.

BY MR. NEAL:

Q Have you worked for Mr. Hoffa?

MR. SILETS: It's irrelevant, your Honor, and I object to it.

THE COURT: Overruled.

A I worked for Local 299 about eleven years ago for about a month or so.

Q Yes, sir. What did you do for Local 299?

A I did an inspection.

Q Inspection?

A On the first arrival there and then I did microphone installation within his own premises.

Q You actually intercepted telephonic communications, didn't you?

A No, sir, I did not.

Q You did not?

A That's right.

Q You ever tell an agent of the--more than one agent at the same time--

MR. SILETS: (Interposing) Your Honor, I am going to object to this. It's obviously irrelevant to the issues.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Did you ever state to an FBI agent that you were asked by the Defendant Hoffa to intercept and divulge to him telephonic communications?

A I never said any such thing.

Q I want to ask you specifically now, did you ever state--

MR. SILETS: (Interposing) What is the date?

MR. NEAL: I will get to that.

MR. SILETS: Start with that and who was there.

MR. NEAL: I will get to that.

MR. SILETS: Your Honor, I think Mr. Neal is going back to something that is ancient history.

MR. NEAL: I want to point out--

THE WITNESS: (Interposing) And, your Honor, may I--

MR. NEAL: (Interposing) I think we are entitled

to show why he was under surveillance.

THE WITNESS: Your Honor, may I make a statement here, explain what he has been reading there has been adjudicated by a jury.

THE COURT: Just answer the questions.

THE WITNESS: All right.

BY MR. NEAL:

Q The question of whether you said this has not been adjudicated with a jury.

A Evidently--

MR. SCHIFFER: (Interposing) I object to that statement. It certainly has been adjudicated by a jury and insist there has been a finding of not guilty, respectfully maintain to your Honor that Mr. Neal has no right to go into this area any more.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Do you know Johnny Dio?

MR. SCHIFFER: Objected to, your Honor. Now he is trying to poison your Honor's mind. You see how devious the devious means are now right in the open by the government prosecutor? What has this to do with the issues before your Honor? I object to it.

MR. NEAL: I withdraw the question.

BY MR. NEAL:

Q Were you interviewed on or about February 20, 1957?

MR. SILETS: Your Honor--

MR. NEAL: (Interposing) Strike that.

MR. SILETS: What happened then I want to point out to Mr. Neal, he knows full well that even the statute of limitations has run.

Now, this cannot have any bearing upon the issues here and it can have no significance or relevancy at all.

THE COURT: It seems to me, gentlemen, that I allowed pretty broad cross examination for the purpose of credibility on other witnesses and I see no reason why I shouldn't allow the same broad cross examination here.

MR. NEAL: I don't want to take the Court's time. I think this is pertinent because their theory is that we surveilled Mr. Spindel in an effort to get surveillance on the defendants.

THE COURT: Well, proceed.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q Were you interviewed by agents of the Federal Bureau of Investigation on or around February 1, February 4, February 8 or February 11, February 15 and February 18th to 20th, 1957?

MR. SCHIFFER: Objected to, your Honor, as being

totally immaterial, incompetent and it certainly is inadmissible in this case and I accuse the government now of using devious means to getting something into the record indirectly which they could not put in directly.

THE COURT: Overrule the objection.

MR. SILETS: Your Honor has pointed out that I have gone into--apparently your Honor is saying I have gone into the credibility of witnesses but I have heard witnesses say time and time again they couldn't remember things that are eight or ten years ago.

Now, your Honor, I don't know how anybody can be expected to remember a thing that happened in 1957, and especially something that has no relevancy to the matters here at hand.

THE COURT: Overrule the objection.

THE WITNESS: Well, your Honor, may I have time to consult with my counsel before I answer these questions?

THE COURT: Yes, if you want to talk.

BY MR. NEAL:

Q Who is your counsel, sir?

MR. SCHIFFER: Jacques Schiffer is his lawyer here.

MR. NEAL: I see.

MR. SCHIFFER: May we just go outside? May we just go outside for a moment?

THE COURT: Yes.

(Thereupon, the witness and Mr. Schiffer left the courtroom.)

MARSHAL SERTEL: Let's be quiet in the court, please.

(Thereupon, the witness and Mr. Schiffer returned into open court and the following further proceedings were had, to-wit:)

BY MR. NEAL:

Q All right, sir.

A I decline to answer that question and assert my privilege under the Fifth Amendment.

Q What privilege, sir?

A My constitutional right not to be a witness against myself or tend to incriminate me.

Q You decline to answer on the ground that the answer--

MR. SCHIFFER: (Interposing) That has been the answer, I believe.

A That is my privilege and I am asserting the privilege.

MR. SCHIFFER: Just a minute.

MR. NEAL: I am entitled to know.

MR. SCHIFFER: I object to Mr. Neal repeating and regurgitating and making the statement. We want to save

the time of the Court. I think these are devious means on the part of Mr. Neal.

MR. NEAL: I want the Court to understand why I am asking these questions. We instituted surveillance on this man for a reason, for a good reason, for information we had.

MR. SILETS: State it.

THE COURT: Let's proceed.

MR. NEAL: You want me to state the reason?

THE COURT: No, let's proceed.

BY MR. NEAL:

Q Did you state to FBI agents in that interview at that time that I mentioned to you, particularly FBI agents--United States Attorney John D. Roder, in the presence of Special Agents Doyle and McShane, at Mr. Roder's specific request, and at that time did you state to those agents--

MR. SCHIFFER: (Interposing) May we have the date, please?

MR. NEAL: February 1, 1957. "Spindel. You next saw Johnny Dio when he returned the $250 advanced to you."

MR. SCHIFFER: I object to reading into the record this kind of matter, your Honor, it's entirely immaterial, irrelevant and incompetent under any theory.

THE COURT: Allow him to ask the question.

BY MR. NEAL:

Q And you then told Dio that you had inspected Hoffa's telephone and found seven taps on them and was going to do a wire job for Hoffa.

MR. SCHIFFER: Objected to, your Honor, the very question itself imputes illegality, the way he just read the question to him and I say it's immaterial and incompetent.

THE COURT: It would be admitted only on the issue of credibility.

BY MR. NEAL:

Q That you arrived in Detroit, Michigan, you were met at the airport by James R. Hoffa, who drove you to the Teamsters Union Building and introduced you to Collins, his assistant.

THE COURT: Now, ask the question.

BY MR. NEAL:

Q Did you make that statement?

A I decline to answer and assert my privilege under the Fifth Amendment.

End Tk 25
Tk 26 fls.

MR. SILETS: Your Honor, it is fairly obvious that this gentleman is going to assert his privilege in this line of inquiry and I can't see any reason except to promulgate this among the press and if Mr. Neal is looking for headlines that is probably a good way to get them.

MR. NEAL: I am not. I'm looking for a way to go home to my wife and children, as a matter of fact.

BY MR. NEAL:

Q I want to take the time. I will ask you, sir, if to every question I ask you with respect to the interviews you had with agents of the FBI in February 1953, would your answer be the same as you have just given?

MR. SCHIFFER: Objection to that question. He can ask a specific question and he can get a specific answer but he is certainly precluded from putting that kind of blanket question in.

THE COURT: Sustain the objection.

MR. NEAL: I can't satisfy Mr. Schiffer and Mr. Silets both.

MR. SILETS: Your Honor, that is the very vice of this, may it please the Court, Your Honor is permitting this for the purpose of credibility and Mr. Neal is not inserting it for the purpose of credibility.

THE COURT: Well, overrule the objection.

BY MR. NEAL:

Q All right, sir. Did you state this to those agents at that time, concerning the installation, the taps in the Teamsters Union Building, you discussed with Hoffa and Bert Brennan during the first trip, the installation of the microphone?

MR. SCHIFFER: I object to it, Your Honor, right at this point, Your Honor. It is entirely immaterial. It is irrevelant. It is incompetent. It is inadmissible for any theory even to test the credibility at this point, Your Honor. It is so obvious on its face that I believe Mr. Neal should not be permitted to pursue this same thing again.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q During the first trip, the installation of microphones in Hoffa's office?

THE COURT: Ask a question, Mr. Neal.

BY MR. NEAL:

Q I'm continuing the statement. Throughout the building, did you make that statement?

A I decline to answer.

Q On the grounds it might incriminate you?

A I assert my privilege under the Fifth Amendment.

Q What is that privilege, sir?

MR. SCHIFFER: Objected to, Your Honor. I think the witness has already stated he understands it.

THE COURT: Sustained.

BY MR. NEAL:

Q Did you state then in the same interview with the same agents on your second trip of June 19, 1953 you installed the taps and showed Bert Brennan and James Hoffa how the installation worked and how your telephone microphones could be used as a tap; did you so state to the agents of the Federal Bureau of Investigation?

MR. SILETS: Your Honor, may I be heard? Your Honor is receiving this for the purpose of ascertaining the credibility of the witness. The witness has already taken his privilege granted to him by the Constitution.

THE COURT: Excuse me. Go ahead.

MR. SILETS: The matters relating to this have suggestion and questions by Mr. Neal, Your Honor, Your Honor knows that man--, it is credibility as to Your Honor's opinion. We don't have a jury here. Your Honor knows that the man is going to take his privilege as long as Mr.Neal persists in reading this.

THE COURT: Mr. Silets, the only problem there is Mr. Schiffer, this witness' attorney, states that he objects to Mr. Neal asking if his response would be the same to this line of inquiry and objected to that question being asked. Now, you on the other hand, object to him asking specific questions. In other words, Mr. Schiffer objects to him

asking general questions and you object to him asking specific questions.

MR. SILETS: May I be heard, Your Honor?

THE COURT: Yes, sir.

MR. SILETS: The case authorities all stand for the proposition that an individual cannot properly invoke his privilege on a blanket question and Mr. Neal is asking him to invoke a privilege on a blanket question.

THE COURT: Yes, that is the reason I sustained Mr. Schiffer's objection.

MR. SILETS: Now, Your Honor, the record should also be very clear that the charges that arose out of these purported allegations all of these people were vindicated. They were found not guilty. Especially as to Mr. Hoffa. Mentioning the name of Hoffa and Brennan. Now if Your Honor please, I suggest to the Court Mr. Neal is not injecting this for the purpose of testing the credibility of the witness because the Court can ascertain for itself, can make its own decision as to the terms of credibility. He is doing it precisely for the one reason of making a grandstand play for the press.

MR. NEAL: Your Honor, I pointed out we started to surveil this man and the Court, everybody is entitled to know why we started surveilling this man.

THE COURT: Overrule the objection.

MR. BRANSTETTER: May it please the Court, I might save time here, I don't understand what the question of credibility is involved. It must be prior inconsistent statements. Must be something that goes to test his credibility. This in no manner can test credibility by the very statements themselves. I know of no theory of evidence. There is no conviction. There is no allegation of conviction. There is no moral terpitude or alleged anything under the rules of evidence that would test credibility.

MR. NEAL: May I continue, Your Honor?

THE COURT: All right. Mr. Reporter, would you go back and read the last question and answer?

(Thereupon, the reporter read back as follows:)

"Question: Did you state then in the same interview with the same agents on your second trip of June 19, 1953 you installed the taps and showed Bert Brennan and James Hoffa how the installation worked and how your telephone microphone could be used as a tap; did you so state to the agents of the Federal Bureau of Investigation?"

BY MR. NEAL:

Q Your answer?

A I decline to answer and take my privilege under the Fifth Amendment.

Q Now, you said that Mr. Schiffer told you to come to Chattanooga or asked you to come to Chattanooga. Is

that right?

A That's correct.

Q And you went to Nashville?

A Yes.

Q Why did you go to Nashville?

A Well, I had stopped down to visit another gentleman and he called in a reservation for American Airlines and said it was a fast electra direct to Nashville and in fact he was going down himself.

Q Who was that gentleman?

A Mr. Konowe.

Q Who is Joseph Konowe?

A Joseph Konowe?

Q Joseph Konowe.

A (Spelling) K-o-n-o-w-e.

Q So, you just rode to Nashville to ride with him, is that the only reason you went to Nashville?

A Yes, sir.

Q Pardon me.

A That is the only reason.

Q Did you see anyone in Nashville?

A Did I see anyone?

Q Did you visit anyone?

A I talked to a few people in Nashville.

Q Who?

A I talked to Mr. Konowe and there were two gentlemen here who were bringing him to Chattanooga. I talked to the Avis Car Rental later.

Q All right. By the way, you rented a car from Avis Car, didn't you?

A Yes, I did.

Q And you drove it to Chattanooga?

A That's correct.

Q You rented the car in Nashville and drove it to Chattanooga?

A Yes, sir.

Q Did you turn it in down here?

A Yes, sir.

Q How did you charge the bill, to Mr. Schiffer?

A No. No.

Q How did you charge it?

A I gave one of the gentlemen upstairs the cash to pay for my car.

Q How did you charge the bill?

A I didn't charge the bill. I didn't go to Avis myself. I sent somebody.

Q Pardon me?

A I didn't go to Avis myself, I sent someone.

Q You did not charge the bill?

A No. When I picked up the car in Nashville I

put a $50.00 deposit cash deposit down.

Q Yes.

A And the other day last week I believe it was I sent someone down to pay it for me and I gave them the cash.

End 26
26A fol.

Q I see, you didn't charge it to the Teamsters?

A No, I didn't.

Q Pardon me?

A I didn't.

Q Was it charged to the Teamsters?

A Not that I know of. I have a paid receipt for it.

Q All right, now, I want to ask you a couple of questions and I just want to ask you without going into the contents; are there pages in that second folded sealed envelope? Pages?

A It says 29 sheets handwritten.

Q Twenty-nine sheets handwritten?

A Yes, sir.

Q All right, sir. Were you interviewed by a Mr. Brad Carlisle on or about February 16, 1964?

A Brad Carlisle?

Q Mr. Brad Carlisle? Do you know Mr. Brad Carlisle?

A Is he the Chicago columnist?

Q No. Mr. Carlisle in the court, would you stand up, Mr. Carlisle?

(Gentleman standing.)

Were you interviewed by that gentleman on or around February 16, 1964?

A I have seen him.

Q Were you interviewed by him?

A I don't recall now whether I was or not.

Q Pardon me?

A I don't recall whether I was or wasn't.

Q You don't recall?

A No.

Q You don't deny it, do you?

A I don't know. I have talked to a lot of newspaper men here.

Q Let me--maybe I can refresh your recollection, did you say that, "I can pick up all of the government messages easily within a radius of 50 miles. I don't even have to leave the hotel."

A That probably would be true. That would be a statement made by myself, it could be picked up for 50 miles.

Q Did you make the statement?

A I did. Made it to every other reporter here when they asked me about it.

Q Was one of them Mr. Carlisle?

A I only know one reporter by sight other than--that gentleman.

Q "This subpoena doesn't worry me. I have got plenty of them. I have got a wall of them in my office."

A I have had subpoenas.

Q Well, I am asking you, did you make the statement?

A That must have been prior to February the 10th or directly following it when you were trying to serve me with a subpoena and I sent you a telegram advising you that I would be glad to pick up the subpoena Monday morning.

Q It was after, by the way, you had picked up these radio communications on Exhibit No. 249, isn't that correct?

A Yes, sir.

Q That you had made the statement?

A Yes.

Q And did you say at that time they are not going to stop me right now. I am going to New York and bring back some more equipment?

A I might have said that.

Q Did you say it or didn't you say it?

A I believe I might have. I don't recall.

Q All right, sir. And at that time did you have that envelope,sealed envelope with you when you were making these statements?

A I don't know. No, I don't think that was written at this time. I'm not sure, there is no date on it.

End Tk 26A
Tk 27 fls.

Q Didn't you?
A There's no date on it.
Q Pardon me?
A There's no date on it.
Q Didn't you at this time tap an envelope, a large manila envelope, and say, "Right here is 29 pages, more pages of notes I made about their messages"?

MR. SCHIFFER: Objected to, your Honor. At this time I'd like to ask a preliminary question of this witness as to whether he spoke with Mr. Brad Carlisle, Mr. Brad Carlisle didn't pat the back of his pocket and say, "I have got something here for you"?

THE COURT: Overruled. Overrule the objection.

BY MR. NEAL:

Q Did you make that statement, sir?
A I might have, I don't recall.
Q Well, did you or didn't you? Oh, you don't recall?
A I don't recall.
Q You could have made it then?
A Could have.
Q All right, sir. To refresh your recollection, to tell you February 17th, 1964, in a news story in the Nashville Banner appearing under the byline of Brad Carlisle that those statements are attributed to you?

A Well, I have talked to a lot of reporters and I recognize the gentleman, having seen him, but I don't recall having the conversation.

Q But you don't deny that you said that, that right in here is 29 more pages of notes I made about their messages? Do you deny making that statement?

A No, I have told several people that I have a secret report that is sealed, 29 more pages.

Q Twenty-nine more pages of --

A (Interposing) Handwritten transcript.

Q Of notes you made about their messages? You have used the words "their messages" too, haven't you?

A I don't remember if I used the words "their messages." I say I have 29 sheets of handwritten transcripts, period.

Q As a matter of fact, you have said outside of this courtroom before this that you, that you had notes made from interceptions of radio communications between FBI agents?

A Yes, I filed my affidavit with the Court. The reporters asked me and I said I had, as I stated in my affidavit, that I had intercepted radio communications of federal agents. This was no secret. I filed it with the Court.

Q You said it outside of this court, haven't you?

A After my filing, yes.

Q Either before or after?

A I don't recall saying it because I have been in my hotel room until the morning I walked over and filed this document, so it couldn't have been before February 10th. I came here the morning of February 10th to pick up my subpoena and at which time I filed the original, which is your Exhibit No. 249, which is my Exhibit "A" to my affidavit.

Q Yes. All right, sir. Aside from 249, with respect to the other sealed document, haven't you told people that that contains more notes of intercepted radio communications between FBI agents, without going into the contents, you have said this contains --

A (Interposing) I have additional radio intercepted messages, yes, sir.

Q You have said that?

A Yes.

Q To people outside of this court?

A Yes.

Q And you have pointed to that package right there?

A I don't know. I have carried this over to the Court on several occasions in preparation to submitting it to the Court.

Q All right. And you pointed to that when you made those statements?

A I don't know if I pointed.

Q Well, do you deny pointing to it?

A I don't deny having it.

Q All right, fine. Now, sir, did you call Mr. -- well, on that, just a moment -- to whom did you make those statements like that?

A You mean that I have an additional --

Q (Interposing) You have additional notes of intercepted radio communications of FBI agents.

A I have made it to Mr. Schiffer and I have made it to other people of the staff that I had prepared the additional transcripts.

Q All right, sir. Have you ever read Section 605 of the Communications Act?

A Yes.

Q And did you know that it was a federal offense to intercept radio communications of federal --

MR. SCHIFFER: (Interposing) Objected to, your Honor, because that's not a true statement of the law and this man has not been qualified as an expert on the law.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q You have divulged the existence of the notes, have you not?

A I --

MR. SCHIFFER: (Interposing) May we have the witness explained what Mr. Neal means by "divulge" since it's a very technical term used in the statute?

MR. NEAL: I withdraw it.

BY MR. NEAL:

Q But you have made the statement to Mr. Schiffer, for example, that you have 29 more pages of notes of intercepted radio communications?

A I stated in the original statement to Mr. Schiffer that my findings were positive, I made these up, I told him that I have a sealed report. I don't -- I never marked this as to the contents. May I have the envelope, please, the original one that this came in that was not marked as to pages but the second envelope? I did mark that there are 29 sheets, handwritten.

Q Yes. But I want to know to whom you made -- now, forget about your first one, I am not asking about that, I am asking about the second one.

THE COURT: Identify it by number so we will know for the record.

MR. DALE: 248, your Honor.

THE WITNESS: No, this is 244, is what he is referring to.

THE COURT: All right.

BY MR. NEAL:

Q 244. 244 is the sealed envelope that says on the outside "29 pages." May I see it, please.

A Yes.

Q I am referring to Exhibit 244 now and it says "Bernard Spindel, 29 sheets handwritten."

A That's right.

Q To whom did you say, "I have got 29 more pages of notes of intercepted radio communications between FBI agents"?

MR. SCHIFFER: I object to the form of the question. This witness has not said he said that exactly to anybody the way Mr. Neal now paraphrases it. He has never made that statement.

THE COURT: Overrule the objection.

A I don't recall having said it to anybody specifically in the terms that you put it.

Q Mr. Spindel, you just testified that you said it to several people.

MR. SCHIFFER: He did not so testify and I object to that kind of a wrong paraphrasing.

BY MR. NEAL:

Q You said Mr. Schiffer, you said it to Mr. -- other people.

MR. SCHIFFER: He did not say that he said it to Schiffer or anybody else. He is misconstruing and

deliberately misconstruing what the record shows.

THE WITNESS: In view of the line of questioning, your Honor, it is quite obvious what he is attempting to do and he has told the press and he has told other people that he is determined to get me on violation of 605.

In view of that any further questions I will take my privilege under the Constitution and the Fifth Amendment since it's quite obvious --

MR. NEAL: (Interposing) You are going to have to take it, Mr. Spindel.

MR. SCHIFFER: Objected to. Who is he to threaten a witness?

MR. BERKE: I think --

THE COURT: (Interposing) Now, let's --

MR. NEAL: (Interposing) I apologize. I apologize to the Court.

MR. BERKE: You are not that tough.

MR. NEAL: I apologize to the Court.

BY MR. NEAL:

Q Mr. Spindel, to whom did you say, "I have got --

MR. SCHIFFER: (Interposing) I'd like the record to indicate when Mr. Neal made the statement he did he walked towards the witness in a threatening manner. I'd like that reflected on this record.

THE COURT: Well, yes, a number of counsel were

on their feet walking.

MR. SCHIFFER: Mr. Neal was deliberately walking toward the witness in a threatening manner and using his right hand and pointing it deliberately at this witness in a tone of defiance against this witness and threatened him.

THE COURT: Proceed.

BY MR. NEAL:

Q I will ask you a few more preliminary. Who told you that I said I was determined to indict you now? Just tell me who.

A I decline to answer and assert my privilege under the Fifth Amendment.

MR. NEAL: Then I move that his remarks that I said that be stricken, your Honor. He can't say that and then decline to make the answer.

THE WITNESS: You seem to have been able to say anything and it's not stricken.

MR. NEAL: Your Honor, he is not entitled to a privilege on that question. He raised it and I want to find out who I made that statement to.

MR. SCHIFFER: The witness has already stood on his constitutional rights and I believe that with the attitude of Mr. Neal as a government prosecutor here and this threatening, defiant manner with this witness, this witness has a right to take the Fifth Amendment. He needs some pro-

tection against Mr. Neal.

MR. NEAL: May I say to the Court that I have never made that statement in my life and I want to know who he is quoting when he says that and he has opened it up, your Honor. He has no right to take a Fifth Amendment privilege.

MR. SCHIFFER: He hasn't opened anything up, your Honor. May we proceed?

THE COURT: Gentlemen, how is that in any way related to anything that could be a self-incriminating question? Well, I will sustain the objection.

MR. NEAL: Then if he is going to claim his privilege on the statement he made that I had said something, your Honor, I move that his remark be stricken from the record. He can't make the statement and then prevent me from cross examining him on it.

THE COURT: All right. Then strike that from the record.

MR. NEAL: All right.

BY MR. NEAL:

Q To whom did you make the statement that this Exhibit 244 contains 29 pages of notes of intercepted radio communications?

MR. SCHIFFER: I object to the form of that question. There is no such thing in this record. This

witness never testified to that the way Mr. Neal is now attempting to repeat.

THE COURT: Overrule the objection.

A I decline to answer and assert my privilege under the Fifth Amendment.

Q Name me the person to whom you made that statement.

MR. SCHIFFER: I object to that question with the insinuation that such a statement had ever been made by this witness.

THE COURT: Overrule the objection.

A I decline to answer and assert my privilege under the Fifth Amendment.

Q Where did you make the statement, where were you when you made the statement?

MR. SCHIFFER: I object to that because there is no such inference in the record that he ever made such a statement, your Honor.

THE COURT: Overrule the objection.

A I decline to answer and assert my privilege under the Fifth Amendment.

Q Mr. Spindel, you came down here saying you were an aide to the Court and you want to help the Court. Is this the way you want to help the Court?

MR. SCHIFFER: Object to the form of that

question. I believe it's argumentative.

THE COURT: Sustain the objection.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q Did you make that statement in the courthouse?

MR. SCHIFFER: Objected t[illegible], your Honor, the form, no such thing is in this record as having been made by this witness.

THE COURT: Overrule the objection.

A I decline to answer and assert my privilege under the Fifth Amendment.

Q Did you make that statement at the Patten Hotel?

MR. SCHIFFER: Same objection, your Honor. Mr. Neal now persists in making a travesty of his questioning of this witness and I object to it.

THE COURT: Overrule the objection.

A I decline to answer and assert my privilege under the Fifth Amendment.

Q Now, Mr. Spindel, do you know Special Agent Hynes H. Izell of the New York office of the Federal Bureau of Investigation?

A I decline to --

MR. SCHIFFER: (Interposing) Same objection, unless there is some materiality to the issue before this Court.

MR. NEAL: I will make it material in just a moment.

A I decline to answer and assert my privilege under the Fifth Amendment.

MR. NEAL: Your Honor, he took the stand. He can't do this unless his whole testimony be stricken.

THE COURT: How can that be related to anything self-incriminating?

MR. SCHIFFER: For this reason, your Honor, if -- I think I should address the Court without the presence of the witness.

THE COURT: All right. You may step out.

(Thereupon, the witness was temporarily excluded from the courtroom.)

MR. SCHIFFER: If the Court please, Mr. Neal has proceeded time and again to inquire of this witness about February 1, 4, 8, 11, 15, 18, 20 of 1957. He attempted to lay a groundwork here with events which have transpired on this record and with which your Honor is well acquainted. Now if he wants to bring in statements he may have made or any conversations he may have had with an FBI agent, and, your Honor, the witness certainly is in a position to judge for himself and should be accorded the privilege as to any conversations he had anywhere with any FBI agent, he certainly has the right to take his protection of the Constitution.

THE COURT: Well, the Court has to be able to form some opinion whether there is any basis for taking the Fifth Amendment. What was the last question asked, Mr. Neal?

MR. NEAL: I asked if he knew Special Agent Hynes H. Izell of the New York office.

THE COURT: How could that possibly be self-incriminating?

MR. SILETS: May I be heard?

MR. SCHIFFER: Because it's opening the door, your Honor, as I understand the line of the cases on the Fifth Amendment that if the witness in being inquired of in the first instance opens the door by answering yes or no, whatever the answer might be insofar as the first question on that line of inquiry is concerned, he then opens the door and waives his rights under the Fifth. He must assert them the first time the first question is put to him.

THE COURT: All right. Well, I will allow him to take the -- exercise his constitutional right if he elects to do so.

End 27a
28 fls

MR. NEAL: Your Honor, this is a matter that is material. This is not a 1953 conversation, I am talking about a conversation that took place on February 16th, 1964, this is material.

THE COURT: You may ask the question but I will allow the witness to exercise his constitutional rights in

that respect. Let's have the witness return.

MR. NEAL: Well, your Honor, I certainly want to abide by your Honor's ruling, but I would point out that is limiting us to taking whatever he says on direct without cross examination.

MR. SCHIFFER: Mr. Neal himself has already threatened the witness. He has put him on notice, read him from the statute, Section 605 of the Communication Act, which itself carries a criminal penalty. He himself has forewarned the witness and certainly the witness has a right to protect himself.

MR. NEAL: I have never in my life, your Honor, threatened anyone with indictment anywhere at any time.

THE COURT: Well, let's proceed. I will allow him to exercise it until I can see what the line of inquiry is, at any rate.

(Thereupon, the witness returned to the witness chair.)

End 27a
28 fls

(Thereupon, the witness Spindel returned to the witness stand and the following proceedings were had, to-wit:)

MR. SCHIFFER: Your Honor, with the permission of the Court, may Mr. Parks be excused? He has another sinus attack and I will waive his appearance until that is over.

THE COURT: If he desires voluntarily to abstain himself from the courtroom--

MR. SCHIFFER: (Interposing) He does, Your Honor, because of this, he will go to the rest room and maybe relieve the tension on his--, thank you, Your Honor.

BY MR. NEAL:

Q Mr. Spindel, did you talk to anyone outside now?

A No.

Q My question was, do you know special agent Hynes H. Izell, of the New York office of the Federal Bureau of Investigation?

A I assert my privilege under the Fifth Amendment.

Q Did you have occasion to talk to Mr. Hynes H. Izell on February 16, 1964?

MR. SCHIFFER: We object to it. Same question, Your Honor, for the same reason.

MR. SILETS: Can you state the time and place, Mr. Neal, who else was present, before you ask the question?

BY MR. NEAL:

Q Over the telephone about noon?

MR. SCHIFFER: Same objection.

THE COURT: Overrule the objection.

THE WITNESS: I decline to answer and assert my privilege under the Fifth Amendment.

MR. NEAL: I respectfully urge the Court to direct the witness to answer.

THE COURT: Well, I'm unable to determine as yet. Proceed. I'm unable to determine whether could or could not be incriminating. I am unable to determine on the record as it now stands.

BY MR. NEAL:

Q Did you call him up yourself?

MR. SCHIFFER: Objected to.

MR. NEAL: You made the call? He didn't call you?

MR. SCHIFFER: Objected to, Your Honor. Same grounds.

THE COURT: Overruled.

THE WITNESS: I decline to answer and assert my privilege under the Fifth Amendment.

BY MR. NEAL:

Q And didn't you have a conversation voluntarily with him at that time after you had placed the call?

MR. SCHIFFER: Objected to, Your Honor. Same ground.

THE COURT: Overruled.

THE WITNESS: I decline to answer and assert the privilege I have under the Fifth Amendment.

BY MR. NEAL:

Q And didn't you state there at that time that you were flying back to Chattanooga that afternoon?

MR. SCHIFFER: Same objection, Your Honor, and I further object, Your Honor, if the Court please, that Mr. Neal already knows that with reference to that conversation this witness is asserting his rights. Now, since he is going into an area which relates to any possible violation of Section 605, which Mr. Neal himself is asserting for the record this witness certainly has a right to assert his privilege and--

THE COURT: (Interposing) Yes, he can assert any privilege but overrule the objection to the question being asked.

MR. SCHIFFER: My objection was simply this, Judge, Mr. Neal knowing the position of the witness attempts to read into the record a purported conversation which I think he is precluded from doing. He is putting in evidence when this witness has already indicated what his position is.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Did you state at that time that you were returning

to Chattanooga that afternoon?

A I decline to answer and assert my privilege under the Fifth Amendment.

Q You have forgotten that you are an officer of the Court? Came down here as an officer of the Court, didn't you?

MR. SCHIFFER: Objected to, Your Honor. Argumentative.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Did you say at that time, did you brag to that agent at that time that you had intercepted Federal Bureau of Investigation radio communications?

A I decline--

MR. SCHIFFER: Objected to. Same grounds, Your Honor.

THE WITNESS: I decline to answer and assert my privilege under the Fifth Amendment.

MR. NEAL: What was your purpose in making that call?

MR. SCHIFFER: Objected to. Mr. Neal wants to run up a box score how many times this witness is taking his privilege, if he wants to spend the rest of the afternoon, Your Honor, and waste the Court's time, I suppose we will have to abide by it.

MR. NEAL: I will be through shortly.

THE COURT: Overrule the objection.

THE WITNESS: I decline to answer and assert my privilege under the Fifth Amendment.

End 28
28A fol.

Q And did you state at that time that the government is in for a rude awakening when you return to Chattanooga?

MR. SCHIFFER: Objected to, Your Honor, same grounds.

THE COURT: Overruled.

THE WITNESS: I respectfully decline to answer and assert my privilege.

BY MR. NEAL:

Q Now, Mr. Spindel, did you discuss these notes with Mr. Schiffer?

MR. SCHIFFER: May we have what notes Mr. Neal is referring to? There are a great many notes in the record.

BY MR. NEAL:

Q Well, let's say those notes in front of you, Defendant's Exhibit No. 249.

A Did I discuss it at any time?

Q Yes.

A I discussed it after it had been put in to public--, the fact remains at that time I didn't even have a copy. After I sealed it I had no copy and after the Court opened it and made it public, I received a copy of this.

Q You say you typed pages yourself?

A Yes.

Q All by yourself?

A That's correct.

Q All right, sir. Did you discuss, did you have occasion to talk to Mr. Schiffer after he came back from a conference in chambers about these notes?

MR. SCHIFFER: May we have the time and place, fix the date?

MR. NEAL: Well, the record shows.

MR. SCHIFFER: Let's have the time. This witness doesn't know. Let's advise him, too.

BY MR. NEAL:

Q After the Court, as you say, it is your characterization, not mine, had opened the envelope, did you have a discussion with Mr. Schiffer about the notes?

A Oh, I talked to him after I received a copy of it, yes.

Q Did he tell you that he refused to answer when asked in chambers if he had seen the notes?

MR. SCHIFFER: Objected to, Your Honor. I move that that be stricken. This is highly improper and again Mr. Neal partakes of devious means of securing evidence which he can't put in in the first instance.

THE COURT: Sustain the objection to the question.

BY MR. NEAL:

Q All right, just tell me, Mr. Schiffer told you to come down here and conduct counter-surveillance, something

like that?

MR. SCHIFFER: Objected to. That is not the purpose which the witness mentioned. He never said anything about counter-surveillance. The record indicates what his true purpose was and Mr. Neal is mis-stating the testimony of this witness.

THE COURT: Overrule the objection.

THE WITNESS: Would you repeat the question?

BY MR. NEAL:

Q What did he tell you he wanted you to come down for?

A To determine if there was any surveillance whether electronic or physical of the defendants, their staff, or their attorneys.

Q Now, in substance that was all that was said?

A More or less, yes, sir.

Q Did you, when did you next talk to him?

A I talked to him here in Chattanooga.

Q Yes. All right, when?

A Monday evening.

Q Monday evening?

A Yes.

Q That was before you got these notes, wasn't it?

A Yes.

Q Before you intercepted the radio communications?

A Yes.

Q What did he tell you at that time? What did you discuss at that time?

A I just told him that I was working on a physical inspection of the rooms.

Q That is all?

A That is all,I had nothing to report.

Q Did you discuss radio communications at all?

A No.

Q All right. When was your next discussion with him?

A I believe it was Tuesday or Wednesday evening I confirmed to him that my inspection was positive as far as a surveillance was concerned.

Q All right. You say and all you said was just positive.

A That's correct.

Q Didn't say anything else?

A No.

Q You didn't describe how you determined it was positive.

A No, I did not.

Q You didn't tell him what means you had used at all.

A I didn't tell him anything.

Q You didn't show him any equipment?

A No.

Q You just said, Mr. Schiffer, positive, or the results are positive.

A I have positive indication of surveillance period. That is all I said.

Q That is all you said?

A That's right.

Q Did you tell him you had a transcript?

A No.

Q You didn't say you had a transcript?

A No. At that time I did not say anything.

Q When did you ever say to him that you had a transcript?

A I told him that I had made arrangements and recorded some of these and that I would make transcripts and seal them in an envelope and I would make it available to the Court.

Q Would you read that last statement back, Mr. Reporter?

(Thereupon, the reporter read back as follows:)

"Answer: I told him that I had made arrangements and recorded some of these and that I would make transcripts and seal them in an envelope and I would make it available to the Court."

Q Said you had made arrangements and recorded some of these; did you have them there?

A No. No. No. Now, you are going way out on the limb. If you want me to pick my words, I will very carefully choose them. The transcripts happen to be in front of me and I am referring to these because they are in front of me. I told him just prior to the time I began to transcribe these that I had positive information. I had made arrangements for recordings. I am taking the time and trouble to transcribe them. And that I will seal them and I need to present this to the Court with an affidavit, period.

Q What did you tell him you were going to make a transcript of?

A I told him that I had made recordings of communications. Now, this was not done until I believe it was Saturday before.

Q You did tell him that you had made recordings of communications?

A I said that I had made some recordings, yes, I did not go into any detail as to what they were.

Q Right. But you did say you had made recordings of some communications?

A Yes.

Q Pardon me.

A Yes.

Q You told that to Mr. Schiffer before you transcribed them and submitted them to the Court?

A Well, now, you are putting the time. I've been sitting here weeks now and the exact date I don't know, but I did just prior to sealing them and putting them in an envelope for the Court I did mention that I had information here which was a positive indication of surveillance. I don't recall going into any detail on the matter whatsoever.

Q Did you tell him these communications of which you had recordings were--

A (Interposing) I didn't specify that they were communications.

Q You just said you did.

A I said I made recordings.

Q All right, would you read back, Mr. Reporter, would you read back what the witness' last statement was?

(Thereupon, the reporter read back as follows:)

"Question: What did you tell him you were going to make a transcript of?

"Answer: I told him that I had made recordings of communications. Now, this was not done until I believe it was Saturday before.

"Question: You did tell him that you had made recordings of communications?

"Answer: I said that I had made some recordings,

Q You told that to Mr. Schiffer before you transcribed them and submitted them to the Court?

A Well, now, you are putting the time. I've been sitting here weeks now and the exact date I don't know, but I did just prior to sealing them and putting them in an envelope for the Court I did mention that I had information here which was a positive indication of surveillance. I don't recall going into any detail on the matter whatsoever.

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"Answer: I said that I had made some recordings,

yes, I did not go into any detail as to what they were.

"Question: Right. But you did say you had made recordings of some communications?

"Answer: Yes.

"Question: Pardon me.

"Answer: Yes.

"Question: You told that to Mr. Schiffer before you transcribed them and submitted them to the Court?

"Answer: Well, now, you are putting the time. I've been sitting here weeks now and the exact date I don't know, but I did just prior to sealing them and putting them in an envelope for the Court I did mention that I had information here which was a positive indication of surveillance. I don't recall going into any detail on the matter whatsoever.

"Question: Did you tell him these communications of which you had recordings were--

"Answer: (Interposing) I didn't specify that they were communications.

"Question: You just said you did.

"Answer: I said I made recordings."

BY MR. NEAL:

Q Do you want to change that answer?

A No, sir.

MR. SILETS: Can we fix a time, my understanding

is he didn't understand whether they were before or after the matters were promulgated and made public. Mr. Neal is trying to confuse the witness. Trying to make a record for something else for some other matter here, why doesn't he try to fix the time of these conversations?

THE COURT: Overrule the objection.

THE WITNESS: In view of your attitude and type of questioning, I'm going to assert my privilege again.

THE COURT: Now, gentlemen, how is it this witness' testimony going to remain in the record in any respect?

THE WITNESS: Your Honor, may I confer with my counsel on this, Your Honor?

THE COURT: Yes, sir.

(Witness excluded from the courtroom.)

MR. BERKE: May I suggest if Your Honor please, a recess? It is about that time anyway?

THE COURT: All right, let's take a recess at this time.

(Thereupon, at 3:15 o'clock p. m. court was in recess.)

End 28A
29 fol.

THE COURT: Are we ready to proceed? Let's proceed.

BY MR. NEAL:

Q Do you remember the question, Mr. Spindel?

A No, I don't. May I have it read?

Q Well, you testified that you told, before you typed these up, you told Mr. Schiffer that you had recordings of communications and were going to make a transcript.

A No, that is not correct. If I said any such thing I was in error. I told Mr. Schiffer, and he is the only person I mentioned my affirmative report to, and I told him I was preparing it for the Court and at that time and up to the time that this was made public in the record I did not discuss or divulge the contents of this envelope.

Q In other words, you want to correct your prior testimony?

A I am not saying correct. You have asked the same question three or four times, you word it slightly different. My answer as it stands from the beginning and it stands now that at no time did I divulge or advise anybody as to the exact contents of--

Q (Interposing) I am not--I am not talking about the exact contents. I am asking you, did you tell Mr. Schiffer that you had recordings of communications without going into the exact contents?

A At what time?

Q Pardon me. Before they were filed with the Court.

A No, I did not.

Q Well, what did you tell him, you had a transcript?

A No.

Q Do ycu say anything about the word "transcript"?

A No.

Q Nothing?

A Nothing.

Q Never at all?

A Because when my original report was affirmative I had no transcript.

Q All right. Now, I want you to think carefully about this. At no time before you submitted those to the Court did you mention the word "transcript" to Mr. Schiffer?

A I believe that I said that I would--I don't know whether I used the word "transcript" or "report", but I said that I would reduce it to writing in effect, the exact words I don't recall, I have no need--

Q (Interposing) You would reduce what to writing?

A Pardon?

Q You would reduce what to writing?

A My report on the report of surveillance.

Q You said you just told Mr. Schiffer that you had

a report?

MR. SCHIFFER: He did not say that, your Honor.

THE COURT: Overrule the objection.

Q You just told Mr. Schiffer that you had a report?

A I said that the surveillance was positive and that I would prepare my report.

Q Prepare your report?

A In writing.

Q In writing?

A And I would give it to the Court.

Q Now, you are sure about that?

A Yes.

Q You are positive?

A Yes.

Q There could be no doubt?

MR. SILETS: Oh, objection, your Honor.

THE COURT: Sustain the objection.

MR. NEAL: All right. But, your Honor, this witness has gone back and corrected his prior testimony.

MR. SILETS: Mr. Neal is stating that he is testifying undesirably to Mr. Neal.

THE COURT: Proceed.

MR. NEAL: Which time is what I want to know.

BY MR. NEAL:

Q You said you told Mr. Schiffer that your

investigation showed positive results.

MR. SCHIFFER: That's the fourth time the same question has been asked, your Honor, it has been answered four times and I object to the repetition.

THE COURT: Yes.

BY MR. NEAL:

Q And that's all you said?

A That's correct.

MR. SCHIFFER: Object to the same.

A Pursuant to my instructions that is all I have told him.

Q He didn't inquire of you, "Well, how did you do this?"

A No.

MR. SCHIFFER: Objected to, your Honor, that has been asked a number of times.

THE COURT: Overruled.

BY MR. NEAL:

Q He didn't inquire in what form this was?

A No.

MR. BRANSTETTER: May it please the Court, I have sat here idly by in this proceeding. I have sat here for several days and I have always asserted my position fairly and honestly with the Court. There is no theory under the law under which Mr. Neal is permitted to go through

this type of examination.

He can ask this witness what he did and that is that. It is obvious to anyone sitting here, and I do this as an officer of the court, that he is merely trying to obtain information for some purpose very specifically stated in chambers once before and I am doing this simply because I feel an obligation to do it and it should be stopped if the Court wants to protect the judicial process.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Did you tell him in detail what you had?

A No.

Q Did you say that your report would show in detail?

A All I said was that I have a positive report and I will submit it to the Court.

Q Yes.

A I did not--I can save a lot of time if you will permit me to finish.

Q Sure.

A I did not discuss the contents of that envelope with anyone prior to the time that this was made public, prior to the time that it was given to the Court. My only discussions and, as I said, I had no copy of this until after it was made public and then I received a copy of this.

Q My question is, did you say that your report

that you would submit to the Court would show in detail?

A I just answered your question. I said my report was positive, period.

Q Nothing else?

A Nothing else.

Q Nothing else?

A That is correct.

MR. SILETS: He answered that.

BY MR. NEAL:

Q Can you tell me then, sir, how Mr. Schiffer could state in a written motion signed by Mr. Schiffer that is now a part of the court records, "The defendant, Thomas Ewing Parks, by his counsel, further avers that there has been numerous surveillance by a great number of government agents of counsel and under individuals who are associated in this case on behalf of the defendant that has resulted in great interference in regard to the assistance that counsel can give defendant, all of which is in violation of the defendant's constitutional rights. A transcript is being handed to the Court as Exhibit A showing in detail--

MR. SCHIFFER: (Interposing) Objection.

BY MR. NEAL:

Q "The surveillance that has taken place in this case by government agents."

MR. SCHIFFER: Objected to, your Honor. That is

not a proper question to this witness.

THE COURT: Well, he can answer if he knows.

BY MR. NEAL:

Q Do you know?

A I believe your question is how do I know Mr. Schiffer could make this statement?

Q Yes.

A Well, I don't know except that I submitted an affidavit with Exhibit A. I don't know how he obtained it but I did submit an affidavit in which I stated I intercepted communications.

Q Did you give your affidavit to Mr. Schiffer?

A Yes, I did.

Q Did you give it to him before he came to court?

A He came with me to court and I handed it to him in the office of the Clerk right here.

Q You handed it to him in the office of the Clerk?

A Yes. I signed it. I believe I signed it in front of the Clerk of this court.

Q Yes. I think that is right. And you handed it to him at the same time he filed his motion, is that correct, with the Clerk?

A Oh, no, no. That is not my typing. I didn't prepare that. Now, you asked me if I knew how he did--now, I prepared an affidavit in longhand and then at that point

I wanted to have it typed and I asked Mr. Schiffer about that and Mr. Schiffer at this point, I don't recall whether this was early Monday morning or not, I couldn't say, I don't remember, I was extremely tired at the time because I had just completed--I spent most of the night completing this.

Q All right. Did you talk with Mister--you had a conference with Mr. Schiffer then, is that right?

A No, I worked all night alone, I was here alone, I don't think Mr. Schiffer was here that weekend.

THE COURT: Let me just ask you this question in order to clear up the record at this point. This Defendant's Exhibit or Exhibit No. 250 purports to be an affidavit. Is that the affidavit you are referring to?

THE WITNESS: Yes.

THE COURT: And that is the affidavit that you had Mr. Schiffer prepare for you to bring to the Clerk's office?

THE WITNESS: Yes.

BY MR. NEAL:

Q The affidavit the Court has just shown you, did you type that?

A No, I did not.

Q Who typed it?

A I had written it out in longhand, I couldn't tell you who typed it.

Q Who did you give your longhand writing to?

A Mr. Schiffer.

Q And that was before you filed this, was it not?

A What is this, Mr. Neal?

Q Before you filed--before you filed your Exhibit 2--what is the number of that?

A 249.

Q Yes, sir. You gave that writing in longhand to Mr. Schiffer before you filed your transcript there, didn't you?

A I gave him my longhand notes to be typed.

Q Yes. And that was before you filed this with the Court, Exhibit--

A (Interposing) I believe it was that morning.

Q 249.

End Tk 29
Tk 29A fls.

MR. SILETS: Before we go any further, I want the record clear when he says "notes," he means notes of the affidavit and not notes of 249.

MR. NEAL: Yes.

BY MR. NEAL:

Q Would you take what the -- you gave those handwritten notes to Mr. Schiffer, is that correct?

A Yes.

Q All right. Now, that was before you filed this transcript with the Court? Pardon me?

A Yes.

Q And where did you give him the handwritten notes?

A I believe in his room.

Q In his room at the Patten Hotel?

A Yes.

Q What room was that?

MR. SILETS: Mr. Neal, before we proceed, so that the record is not in dispute, when you say "notes" you mean notes, you mean the handwritten affidavit?

MR. NEAL: Yes, the handwritten, the handwritten notes which later became the affidavit of yours. That is the notes I am speaking of so that the record will be clear.

THE WITNESS: Right.

BY MR. NEAL:

Q You gave those handwritten notes to Mr. Schiffer

in the Patten Hotel in his room, is that right?

A I believe that is correct.

Q On the morning before you filed a transcript with the Court?

A I filed this about, I would say about 8:30 in the morning.

Q When did you give him the handwritten notes that later became your affidavit?

MR. SILETS: Your Honor, may I interject here? I have been listening now and the Court has, I think, chastised me in a friendly way for being out of the record by saying that I was not going into the issue of the motion of surveillance. Now, Mr. Neal is going into great volumes of transcript -- I don't mind paying 20 cents a page for it, I like to see these people earn a living, but he is going into great volumes of transcript not related to the issue of surveillance, whether in fact there is a surveillance or not.

Now, this man has testified as to what has been made public.

Now, if Mr. Neal wants to go into that I think it might be relevant, but he hasn't even skirted or touched that yet.

THE COURT: Yes. Well, let's move along.

BY MR. NEAL:

Q All right, sir. What time did you give him the

handwritten notes that later became your affidavit at the Patten Hotel?

MR. SILETS: I object because it doesn't pertain to the motion for surveillance.

THE COURT: Overrule the objection.

A Well, I would say it would be about 20 minutes to a half hour before we came here and we came here, it was about 8:30 in the morning to the Clerk of the court.

Q To file the transcript?

MR. SILETS: Objection, your Honor. It doesn't pertain to the motion.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Who else was present when you gave him your typewritten notes?

MR. SILETS: Objection, it doesn't relate to the motion.

THE COURT: Overrule the objection.

A I am trying to recall. As I say, I had worked all night on this and that particular morning I was not in the best of condition mentally and I am trying to recall the exact sequence there. I know that it was just prior to coming here. I couldn't fix the time but I do recall that it was about a half hour before court time, and this would make it a few minutes before that.

29a-4 • Spindel - Cross

Q My question was who else was present?

A No one.

Q Besides you and Mr. Schiffer?

A No one.

Q No one else?

A No.

Q Now, would you take your affidavit there that the Court has and tell me if the handwritten notes were the same as your affidavit there that you signed?

MR. SILETS: I again interpose an objection, your Honor, it does not bear upon the issues at hand that we are trying, the question is whether or not the government in fact interfered with their attorneys and their clients by virtue of a surveillance.

THE COURT: Overrule the objection.

A Well, there are a couple of words different, not too much, and I asked him to assist me in reading this, if this would be proper to submit, not being an attorney I am not capable of writing this out.

End 29a
30 fls

Q But you did adopt that as yours when you signed it?

A Yes.

Q And with the exception of a couple words that was your--that is the typewritten transcription of your handwritten notes, is that correct?

A Right. In fact, I believe I still have the handwritten one that I wrote.

Q Do you have it here?

A No, I don't have it here.

Q What couple of words in there were different? Can you recollect?

A Well, I guess you would say just the legal language of it. The first part being duly sworn, makes oath as follows, and so on. I never used that term when I make an affidavit.

Q Mr. Schiffer put that in there. Is that right? Or somebody did?

A Yes. I couldn't--I mean I could pick out some obvious things such as further affiant saith not.

Q In other words, everything in there is the same as your typewritten notes except the terminology?

A Yes. More or less. More or less.

MR. NEAL: Just a moment, your Honor. I just want to make sure we are clear on this.

BY MR. NEAL:

Q This document you submitted is the basis for your, these notes, Exhibit No. 249?

A No. 249? Yes.

Q Now, with respect to your affidavit, sir, I am not talking about the people you say you saw surveilling you when you got here in Chattanooga, but you stayed in your hotel room or in the hotel?

A Yes.

Q From the time you arrived until February 10th?

A No, that is not what I said. I said I arrived at approximately 3 P.M. on Monday.

Q Yes, sir.

A February 3rd.

Q Yes, sir.

A I went down about two hours later, I believe 2-hours parking meters, I placed coins in the meter. I went down on another occasion, took the equipment out of the trunk of the vehicle into the hotel. I removed my luggage. The following morning I went to Western Union. Went, I came to the courthouse here. I made other stops. Went for a haircut. Went to Greyhound. I went to Avis Rent-A-Car. But from Tuesday approximately 5:30, February 4 to February 10th I never left my hotel room.

Q All right, sir. So then any expert opinion or

other opinion that you expressed with respect to surveillance or of defendants or their counsel, comes from what you call your interpretation of Defendants' Exhibit No. 249, is that correct?

A That plus my personal observation.

Q Your personal observation?

A Of the agents in the area.

Q Do you mean the agents surveilling you?

A Are you asking me if they were surveilling me alone? I don't know. I know they were surveilling me. Who else, I couldn't say.

Q Well, that is what I want to know. So then you are not saying they were surveilling somebody else, who else you could not say?

A Not from visual observation.

Q Any opinion you expressed, say it again, any opinion you expressed with respect to surveillance of defendants or their counsel comes from what you call your interpretation of Defendants' Exhibit No. 249?

A That's correct.

MR. NEAL: All right.

THE COURT: All right, anything further?

MR. SCHIFFER: I just have one question if I may put to the witness, your Honor.

MR. NEAL: May I ask him one more question while

he is doing that? I think it may save time in the hearing.

THE COURT: All right.

MR. NEAL: Where are the pictures? The others?

BY MR. NEAL:

Q Now, Mr. Spindel, I am going to hand you a series of pictures that have been offered to this Court as purporting to show cars and FBI agents.

A Yes.

Q And you have testified that you can recognize an FBI automobile?

A Yes.

Q And I am going to ask you, sir, if in these--may I just stand over here and hand these to him, your Honor?

THE COURT: Yes, sir.

BY MR. NEAL:

Q I am going to ask you if you see in the first one, is that an FBI automobile?

A No, sir.

THE COURT: Those are identified by letters, gentlemen.

THE WITNESS: This is marked Exhibit No. 251. The answer is no, sir.

BY MR. NEAL:

Q That is not an FBI car?

A Not from the antenna.

Q You would say it is not an FBI car?

A That is correct.

Q Now, that automobile part of that is Exhibit No. 252?

A The front end is a foreign Volkswagen.

Q You have never seen an FBI official car a foreign Volkswagen?

A No, I have not.

Q Here are parts of, a couple of cars and some more, do you see anything there that is an FBI car? I am handing you now, well, apparently don't have these numbers on them.

A No, nothing here.

Q All right, sir. Now, that is just a group of people. Do you recognize any FBI agents in that group?

A No, I can't identify positively.

Q Do you recognize any FBI agent in that group?

A No.

Q Just for the record they don't purport to be FBI agents or cars, do they?

A No.

Q All right, sir. And a photo "G" doesn't purport to be a car or FBI agent?

A No.

Q Photo Exhibit "F" doesn't purport to be a car

or an FBI agent?

A No.

Q Photo Exhibit "E" doesn't purport to be a car or an FBI agent?

A No.

Q Photo Exhibit "D" doesn't purport to be an FBI car or FBI agent?

A No.

Q The same thing, Photo Exhibit "C", "B", "A", "A, B and C"?

A No.

Q Now, here is a scene of the courthouse, Exhibit--well, Photo Exhibit No. 7, it looks like, one of the exhibits, do you see any FBI car in that?

A Well, the background cars I can't distinguish, Mr. Neal, any that are distinguishable. No.

Q These are numbered now Photo Exhibit 8, do you see anything in there that is an FBI car?

A No.

Q Exhibit No. 9, do you see any in there that looks like an FBI car?

A Mr. Neal, when you say FBI car, there are occasions when the FBI uses cars that do not contain radios. In some emergencies I have known them to use cars, their personal cars, but if there is a car here with a phantom

antenna I am sure I will spot it but my answer is to these questions are qualified on the basis that it may be a car used by the Bureau that, no, sir, has no radio equipment in it.

Q But you previously testified that 90 per cent of the cars would have that.

A Yes, but there are occasions out of cars and they have to use their personal cars.

Q I hand you Photo Exhibit 10 and ask you if you see any FBI car in that photo?

A Well, actually there is only one car that is really visible, no, that is not.

Q All right, sir. I believe this is the same, well, that is the same car in Exhibit No. 11?

A Different shot.

Q Different shot?

A Yes, sir.

Q Is that an FBI car?

A No. Government couldn't afford to buy such cars.

Q Buick or Lincoln?

A Yes.

Q I show you photo Exhibit No. 12, is that an FBI car?

A Well, that is the same vehicle.

Q I see. All right.

A That is the same vehicle.

Q All right, sir. Now, No. 13, is that an FBI car in there?

A Well, if you will notice, Mr. Neal, it is very light print as far as the antenna I can't see the base of it.

Q Well, from your observation. You will have to do the best you can, that is all you can do.

A Well, I would say looking at it with improper print it is close, but it isn't, it isn't.

Q All right. Now, Photo Exhibit No. 14?

A Well, that is the same vehicle. No, definitely not.

Q All right, sir. Now, how about Photo Exhibit No. 15?

A You are referring to this car?

Q Any car in this picture? I don't know why these were submitted. Their affidavit says they are FBI cars, I didn't say that. I have no idea.

A I have no idea. It could be. Now, this one is, this one is.

Q Now, note the number on that. I think I can get it for you quicker. Exhibit No. 15? Photo Exhibit No. 15?

A Yes.

MR. SILETS: Could we see it, Mr. Neal?

MR. NEAL: Yes.

BY MR. NEAL:

Q Do you see any defendants or any counsel in that picture?

A No, I don't.

Q That has been one of the few pictures that you have seen no defendant or any counsel in that, is that true?

A That is true.

Q All right, now, show it to him. Now, Photo Exhibit No. 16, any FBI cars in that?

A Well, I can't see the antennas here on any of the vehicles in this photograph.

Q All right, sir.

A The only one in the background are out far. I can't say.

Q You can't say?

A I can't say.

Q Photo Exhibit No. 17?

A No.

Q Any FBI cars in that picture?

A No, there is not, does not appear to be FBI cars.

Q Photo Exhibit No. 18, any FBI cars in that picture?

A Well, there is a car here with an antenna but the antenna size looks too large for the frequency basis and based on that I would say no, I can't see the base of the antenna and based on the length of it I would say no.

End Tk 30

Q All right, sir. Any FBI cars in picture 19?
A Well, there's only one car I can see and that is not.
Q All right.
A It's plainly a photo showing individuals walking with a lot of parked cars in the distance.
Q Some of these are obviously duplications. I don't know why they are submitted, Mr. Spindel, but here is 20. I think you have seen that car before. Is that an FBI car?
A No.
Q All right, sir. Now, maybe you can't tell from this one but here is another one, Photo Exhibit 5. Is that an FBI car?
A I can't see any antenna on this and I couldn't say on this one.
Q All right, sir. Is that? What exhibit number is that, 5?
A Exhibit 5.
Q All right, sir. Here is Photo Exhibit 22. Any FBI car in that?
A No, the antenna on the car in the foreground is not an FBI car and that's the only car that I can determine.
Q Photo Exhibit 21, is that an FBI car or any of those in there FBI cars?
A No, I can't make positively -- there's only one --

two cars positive.

Q All right. In all of these pictures then there has been shown one FBI car, is that correct?

A As far as my identification goes, yes.

Q And most of the cars you could definitely answer yes or no, some of them you couldn't because you couldn't see the antenna?

A Well, when you say "FBI cars," again we are coming back to cars with radios, two-way radios on them with a phantom antenna. That is what I am basing it on. I don't know, you might be driving or one of the agents might be driving his own car.

Q Of course, we understand that. Did you take these pictures?

A No, this is the first time I have seen these photographs.

MR. NEAL: Let the record show I am putting the pictures back into --

MR. MARVIN BERKE: (Interposing) Here is one.

MR. NEAL: Back into the envelope just identified, Photo Exhibits A through H. Now, apparently there are more than this Exhibit A through H in there.

THE COURT: Well, the photographs were submitted on two occasions, some were added to that on the second occasion, making the larger number than is shown on the

envelope.

MR. NEAL: I think A through H referred to the Disspayne incident, the others are allegedly FBI cars surveilling the defendants.

THE COURT: That I believe is a court filed exhibit.

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Spindel, did you know that the FBI had rented some cars from the Avis Rent-A-Car Company?

A No, I did not.

Q If that were the fact there would not be a phantom antenna used, is that right?

A I would suspect not because it would require drilling into the car in order to install the antennas.

MR. SILETS: Thank you. You may step down.

THE COURT: Mr. Spindel, just one question. In the first place, could you identify by name any person who you state was an FBI agent and whom you observed?

THE WITNESS: By name, no, sir, I could not.

THE COURT: Have you been in Chattanooga on occasions previous to your visit here during this last month or two?

THE WITNESS: No.

THE COURT: Had you ever made any observations

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of FBI cars in the Chattanooga area prior to your coming here during this trial?

THE WITNESS: No.

THE COURT: All right.

THE WITNESS: Your Honor, there is one sheet that is missing that is unstapled.

THE COURT: All right. This has become unstapled. Fasten it back.

MR. SILETS: Your Honor, I don't know, I think they were all offered and marked and introduced but all of these exhibits I have referred to, they can be considered part of the record on this motion, can they not, I mean all of the ones -- I don't have the exact numbers here, I think they are all marked.

End 31

(Witness excused.)

31a fls 31a

THE COURT: The affidavit of Mr. Spindel, which was part of a motion in the court file, was marked as Exhibit No. 250. Can the Clerk make a copy of that and file a copy of the exhibit so the original affidavit may remain in the court file?

MR. SAULPAW: Yes, your Honor.

THE COURT: This is marked.

MR. SILETS: Your Honor, I think we marked the original at the time the witness was being examined and I think Mr. Dale was going to then Thermofax or photocopy it.

THE COURT: All right. Keep the record straight.

MR. SAULPAW: Here it is right here, your Honor.

THE COURT: Let me have the original back.

MR. SILETS: Your Honor, could we offer in evidence on the motion the specific photograph that was identified by the Witness Spindel as in fact being an automobile used by the FBI?

MR. NEAL: We introduce them all. They were all offered for that purpose and they all are a part --

MR. SILETS: (Interposing) Let's put them all in then.

MR. NEAL: Yes, sir.

MR. SILETS: The one that Mr. Spindel identified will be offered in behalf of the defendants and the government is offering the remaining.

MR. NEAL: No. They submitted them to the Court and they made a big to-do about, "We are showing the cars."

THE COURT: All of the photographs are filed as a part of the court file and designated "Attached to W. E. B. Affidavit."

MR. SILETS: "W. E. B.," that's Bufalino.

THE COURT: In re Disspayne photographs, Exhibit A through H.

MR. SILETS: May we offer the affidavit and the attachment then also?

THE COURT: Yes, sir.

MR. SILETS: That would be the next number.

THE COURT: The affidavit has been marked heretofore as Exhibit 250.

MR. SILETS: I think that was Mr. Spindel's affidavit but now I am referring to the affidavit of W. E. B. that the Court referred to, I think that must be Mr. Bufalino's affidavit. I think that was a supplemental affidavit.

That appears to be it, your Honor. May we also have this marked together with the attachments?

THE COURT: The affidavit of Mr. Bufalino, let it be filed as an exhibit, likewise make a copy of it as an exhibit, leave the original in the court file.

MR. SAULPAW: 253.

MR. SILETS: That will be attachment to it. May the record reflect that 253 has an attachment, being photographs?

THE COURT: All right. Now there are two photographs in the envelope which you have attached to the affidavit of Mr. Bufalino and then identified as Exhibit No. 253 were photographs which had heretofore been introduced individually as Nos. 251 and 252.

(The affidavits and photographs attached thereto were marked Collective Exhibit No. 253 for identification and received in evidence.)

MR. SILETS: Then we can remove those or do as

the Court wishes as long as the record is clear.

THE COURT: Just so the record is clear.

MR. BRANSTETTER: May we proceed?

THE COURT: Yes, sir.

MR. BRANSTETTER: I'd like to call Mr. Berke.

MR. SAULPAW: Raise your right hand. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. BERKE: I do.

HARRY BERKE,

a witness called at the instance of the defendants on the motion on surveillance, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Will you state your full name, please?

A Harry Berke.

Q What is your profession?

A An attorney-at-law.

Q How long have you so been an attorney-at-law?

A It will be 30 years September of this year.

Q Practicing continuously?

A Yes, sir.

Q Mr. Berke, you are the local or the chief counsel

for James R. Hoffa, one of the defendants in the case that has been on trial here for some time in Chattanooga, is that correct?

A I am.

Q When were you first employed or did you begin your participation in this particular proceeding?

A Well, I took the matter of employment under advisement for several days and I think the date that I agreed to represent Mr. Hoffa was on the morning of January 9th.

Q 1964?

A Yes, sir.

Q You have, of course, appeared in court each day representing Mr. Hoffa?

A Yes, sir.

Q During the total proceedings since their inception on January 20th, 1964?

A Yes, sir.

Q Would you state, Mr. Berke, whether or not you have been under surveillance at any period of time since you began to represent Mr. Hoffa, and, if so, explain the circumstances.

MR. NEAL: Well, we object to it, of course, to him saying whether he has been under surveillance. Of course, we have no objection to the facts.

THE COURT: Sustain the objection as to the form of the question.

BY MR. BRANSTETTER:

Q Would you state the facts and circumstances, if any, with reference to your being followed, observed, watched, or any other manner that would indicate you were under observation since the beginning of the trial and preceding the trial?

A Well, for the first few days before I was employed my name had been mentioned in the papers as possibly representing Mr. Hoffa. I was not watched but on January 9th, 1964, then I was.

Q What was the nature?

MR. NEAL: Well.

BY MR. BRANSTETTER:

Q What was the nature and type of this?

A Well, I was alerted by Mr. Haggerty that I would probably be under surveillance so I was on guard.

On January 9th, I would say about 6:15 or 6:30, when I left the office -- I park my car in the Volunteer Garage, my office is in the Volunteer Building -- and as I was driving out the entrance was blocked by a service truck of the Volunteer Garage and I couldn't get out of the garage.

I sounded the horn. One of the garage attendants got into the truck to back the truck up and while he -- and

Tk 32 H1 •

Harry
Berke - Direct

I drove out and as I drove out another automobile that was already parked in the filling station part of the garage started to follow me. I went down Market Street. And the car continued to follow me and as I approached Market Street bridge I purposely slowed up very slow. Dropped down to 10 or 12 miles an hour and there was a lot of traffic. That car slowed up. A lot of cars started passing me but this car didn't.

And I kept my eyes on the car and then I speeded up across the bridge and it kept following me and now normally I go straight to my home. After I cross the bridge.

This time I decided to make a left turn to see if this car would follow me and it did. When I got to Pruitt's Super Market, I turned to the left and drove into a filling station and got some gas.

While I was parked there at this station I kept my eyes on this car. He turned past Pruitt's and made a U-turn and faced towards town where he could see my car. I kept watching him all the time. He turned his lights out. It was dark.

After I got my gas I then headed in the opposite direction and as I started out I saw the lights go on on this car and I came out and he followed me and I made a left turn before I got to the North Market Street and went into a residential area and made numerous turns and this car

followed me and I kept on and went down Dallas Road and there is a one-way street there and I don't know whether this gentleman was from town or not but I purposely went up the wrong way on a one-way street and this car did the very same thing.

So I went back into this residential area still didn't go home and went into a dead-end street but before I got to the dead-end street I pulled into a private driveway, I don't know whose it was, the car passed me. I turned around real fast and then as far as I know I lost the car that night.

Q State what if on any other occasion following this one that acts of a similar character occurred.

A Well, on the next night I alerted my son that I was being watched and I asked him to wait about half a minute or a minute after I left because he has his car there, too, and follow any car that is following me and I told him what route I was going to take. I didn't take the same route every time.

When we got to the garage from the building I saw on the lower level there were two men sitting in a car. And they had their lights on and they were waiting there and we immediately suspected that those were the cars going to follow us. And I gave my son the route that I was going to take. This time we decided to go up Lindsay Street and

up Georgia Avenue and across the Walnut Street Bridge.

As soon as I got passed this car it started following me. Went up Walnut Street and my son, of course, I don't know what he did, but I learned later and you can ask him, of course, he followed, and I couldn't see my son's car. He followed me all the way across the Walnut Street bridge and then I made a turn and then I lost him. I don't know whether he continued following me or not but he followed me at least across the Walnut Street bridge.

Now, this type of surveillance continued with the exception of two nights that I couldn't remember, in fact I couldn't tell that they were following me on two particular nights. I don't have the exact dates because I didn't consider it important, but the surveillance stopped as soon as the jury was selected, impaneled and sworn as far as I know there was no surveillance of me and my automobile on my way home following that time.

Q And this continued from the date that you accepted employment up to with the exception of two evenings up through the selection and swearing in of the jury?

A That's right.

Q In this case.

A That's right. Of course, there was further surveillance later on but continued surveillance.

Q Yes, sir, I will ask you, Mr. Sheets that you

speak of on the first instance,was he the one previously testified on this motion dealing with surveillance and you saw him on the witness stand?

A He was not the gentleman that followed me in a car.

Q I'm asking you if he was the one at the Volunteer Garage?

A Yes, sir, he is the one that was at the Volunteer Garage on January 9th.

Q Now, would you state then what other than this following you home, what other instances that you have personal knowledge of where you were observed, followed, checked on, in any manner with reference to or during the period of these proceedings of United States versus Hoffa, et al?

A Well, I remember one particular night in particular because it was very strange. We had been trying to get a conference with Mr. Hoffa but we were afraid to discuss the matter of defense and the evidence and so forth in either Mr. Haggerty's room or Mr. Hoffa's room or in fact any other rooms that are rented up there at the hotel. So I suggested we go, that we just go out maybe and get a drink, a Coca-Cola, somewheres, and sit down and discuss the next day's proceedings. We had gotten some Jencks statements or we had to discuss something. We had something

to discuss. I don't remember just exactly what it was.

Well, Marvin had his car, my son Marvin Berke, had his car parked in front of the hotel and Mr. Hoffa and myself, Marvin Berke, and Mr. Morris Shenker who is also an attorney and who was advising Mr. Hoffa in this case, although not participating in the trial, we decided we would go out and see if we could just go to a restaurant or somewheres and try to talk a little bit about this case.

Mr. Haggerty didn't want to go. He said I know we will be followed anyway. There is just no question about it. So we went down in a car and we started down Broad Street and we had really intended to go to South Broad Street either to the Drake or to the Ranch House one of those restaurants when we noticed a car had pulled in behind us and I then suggested to Marvin instead to make a right turn and go towards the Read House which he did and this car followed.

I told him then to go out to the west side Urban Renewal District.

End 32
32A fol

Now in the West Side Urban Renewal District it is entirely desolate. There are no street lights out there now. There are no houses. They have all been torn down. The area has not been developed yet, but there is a road which I was familiar with that you could take going west and then south. We did that. Now, going down West Ninth Street I had Marvin slow down to a snail's pace and so did this other car. We stopped then when we got to the end of West Ninth Street before making the turn and this car stopped.

Now this car, it couldn't turn around, it couldn't do anything because where we stopped it was just narrow and there is no way to get around. We then turned left and we went about a half a mile or so towards Main Street and that would be West Main Street. This car followed. Now while we were on the way to Main Street we stopped either once or twice and this car stopped. And then finally we went past Main Street and then this car when we got into the regular city area this car passed us at a high rate of speed. And we tried to follow and see where it was. We thought we spotted it somewhere but we weren't sure about it. We came back to the hotel because we figured then we were certainly being watched. The whole trip, I would say, 15 minutes.

Q Now what type of automobile was this? Were there four of you?

A Yes, sir, four of us.

Q Mr. Hoffa, you, Mr. Marvin Berke, your son, and Mr. Shenker?

A That's right.

Q Your son Marvin has been counsel and participating each day in these proceedings?

A Yes, he was.

Q Mr. Shenker has been in court almost every day not counsel of record in this proceedings?

A Yes, sir.

Q What type of car was your son driving on this occasion?

A He was driving a white Pontiac four-door sedan.

Q Do you know the license number?

A Yes, sir. The license number is 4U-8888.

Q In order that I might not get into a problem area, would you describe yourself physically for the record, do you have a bald spot on the top of your head?

A Yes, I do.

Q Are you rather slight and heavily built?

A Yes, sir.

Q Let me ask you this, did you hear the description that Mr. Spindel stated that he picked up over the radio of four people getting into this car with this license number? Were you sitting here in court and heard this?

A Well, the first that I became aware of it was when

this record was made public which was a very short time after this incident and then when I saw my son's license plate number in this transcription, then I remembered and, of course I knew I was being followed anyway tha- there was no question about it in my mind then because it was my son's automobile. And the three men and Mr. H. described was myself, Marvin, Mr. Shenker, and Mr. Hoffa.

End 32a
33 fls

Q You think that you are not going to resent being described as somewhat appearing like a Monk, wasn't that the description?

A Well, I can't help that.

Q State whether or not this is on or about the 6th of February, 1964?

A Yes, that is about right.

Q Now, where was the car parked, the Pontiac with License No. 4U8888 when you did get in the car, was it at or about the Patten Hotel?

A It was adjacent to the Patten Hotel in the corner of 11th and I believe that street is called Columbia Street.

Q And state whether or not the four persons you have designated were the only persons that went to the car, got in the car and took the ride and returned, were there any other individuals in the car during the trip that you have just described?

A No, sir.

Q Now, would you state whether or not on this, as well as other occasions, some or all lawyers representing the various defendants in this particular case, United States vs. Hoffa, et al., refused to discuss the proceedings for the day in hotel rooms?

MR. NEAL: Your Honor, I object to that.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Would you state whether or not on any other occasions other than those you have now mentioned you knew you were being followed, observed, watched or checked upon?

MR. NEAL: Object to that.

THE COURT: Overrule the objection.

MR. NEAL: Your Honor, what I object to, I am objecting to how he knew he was being checked or watched, surveilled.

THE COURT: Well, he can testify to what the facts are.

MR. NEAL: Yes, he can testify to facts but not what he understands the facts to be.

A After the 23rd, after the jury was selected, with the exception of this occasion and one other occasion.

Q What was the occasion?

A But my client was not in the automobile at that time, just my son and myself.

Q Well, would you describe that occasion?

A Yes, sir. We got in the automobile and we were on the way home and we suspected that this car was following us and we did the very same thing. We would slow down and the car would slow down and then we continued on and the car would continue on and we got across the bridge and started up Dallas Road, why, we lost the car.

Q Would you state this was the only other specific instance that you recall during the period of time involved during this trial?

A It's the only specific instance that I was able to detect that some automobile was following me.

Q The record shows that you were employed on the 9th of January, I believe you stated?

A I think that is correct.

Q The trial began on the 20th of January, 1964?

A That's right.

Q There was a pre-trial conference here on--was it the 16th of January, 1964?

A I believe it was the 18th.

Q Eighteenth. Thank you. Would you state whether or not the circumstances that you have described here in court interfered in any way with your preparation for trial of this case?

MR. NEAL: Your Honor, we object to that, too. He can give the details as to what happened. He has given these instances. I object to any whether or not it interfered, that is certainly not permissible testimony.

THE COURT: Well.

MR. NEAL: I think the Court has observed how well prepared this case has been, how many lawyers have been involved with the defendants. Maybe it was lawyers surveilling

lawyers for defendants. There have been so many of them, certainly the government is not charged with them.

MR. BRANSTETTER: Counsel makes a statement--

THE COURT: (Interposing) Confine the testimony to practical matters and not statements.

BY MR. BRANSTETTER:

Q You knew Mr. Sheets was not a lawyer on the defense side, didn't you, when you saw him at the Volunteer Garage?

A I knew who he was, however, that was the first day I met him.

Q How did you know who he was?

A Mr. Jack Reddy and Mr. Sheridan and Mr. Sheets were out in the hall of the courtroom on the afternoon when the jury panel was--the jury names were drawn from a box by the Clerk.

End Tk 33
Tk 33A fls.

Q Do you have any personal knowledge as to whether or not your phones at home or the Teamsters headquarters or any other place you worked were actually tapped or being listened into by any person other than the sender and receiver or the sender and receiver in reverse?

A Only from the echo and the disturbance in the telephone and that's the only way, but I can't say that they were tapped.

Q Would you state whether or not you received calls, without stating the individuals, from persons stating that they had information but they couldn't talk to you over the phone or would not?

A I would.

MR. NEAL: Your Honor, I have had the same experience with a well-known wiretapper in town.

MR. BRANSTETTER: We object. If he wants to object --

MR. NEAL: (Interposing) Well, I do object. It's not admissible testimony. I have said --

MR. BRANSTETTER: (Interposing) The Court will rule on whether it's admissible.

MR. NEAL: Well, I object to it.

THE COURT: Well, proceed.

A I have had people call me from all over the country. I have never seen anything like it, calls from

California and other places.

THE COURT: Well, this doesn't seem to be getting anywhere.

A I would just tell them, they would ask me, "Is your phone tapped?" And I would say, "I believe it is." And they'd say, "Well, I'd like to talk to you." And I said, "Well, you can either write me a letter or if you want to I will try to call you back from another phone."

And most of the time they were scared off and they just won't say anything. However, some of them did -- I did get information from some and I have letters from some.

MR. SILETS: I have a couple of questions.

DIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Berke, you heard the final arguments and there was some reference to the fact that James R. Hoffa was passing notes to you here in the courtroom. Is that as a result of your inability to see him at the proper time because of this surveillance?

MR. NEAL: We object to that.

THE COURT: Well.

MR. NEAL: They can just say anything. This is a matter --

THE COURT: (Interposing) That is speculation.

MR. NEAL: An opinion; let's stay on the facts on

the matter. Let's not state --

BY MR. SILETS:

Q (Interposing) I have heard several occasions now concerning Mr. Neal's remarks about the number of, large number of lawyers here. Isn't it true that there are only three attorneys of record representing Mr. Hoffa, you, your son, and Mr. Haggerty?

A Yes, sir.

Q All right. Now the only other attorneys of record representing defendants were the attorneys that are seated at counsel table, isn't that right?

A Yes.

Q And as far as other attorneys who have appeared and given assistance, are there as many as 20 or 15 or whatever has been the figure bandied around here?

A Well, that's a pretty high figure.

Q Now, to the best of your recollection, just how many lawyers actually offered or rendered active service and participation to you and Mr. Haggerty, other than counsel of record for other defendants?

A In the courtroom?

Q In the courtroom or otherwise.

A Let's see, there were three.

MR. SILETS: Thank you, Mr. Berke.

MR. NEAL: Just a couple of questions.

CROSS EXAMINATION

BY MR. NEAL:

Q How about Mr. Shenker, he rendered assistance, didn't he?

A Mr. Shenker rendered some assistance but very, very little, I mean I didn't even consider him as rendering assistance. In the courtroom he would come in and make some suggestions but, now, at the hotel he gave none whatever.

Q I thought you just testified that he was along with Mr. Hoffa and you and who else that went out there to the urban renewal area?

A Yes, sir, but we didn't get to discuss anything.

Q Wasn't he here to render assistance to the defense?

A He's here to render assistance but not to me.

Q Oh, I see. Well, I was using the defense collectively.

A No.

Q Mr. Haggerty --

MR. SILETS: (Interposing) May I state for the record Mr. Shenker rendered valuable assistance to me, your Honor.

BY MR. NEAL:

Q He was retained by Mr. Hoffa to help his defense, was he not?

A I believe so, however, I don't know.

MR. SILETS: I can state --

MR. BRANSTETTER: (Interposing) I can state this, Mr. Shenker told me he was furnishing his services without expense to anyone. This is what he told me, without expense to anyone.

MR. NEAL: All right, fine.

BY MR. NEAL:

Q Even Mr. Bufalino was assisting you, was he not?

A Mr. Bufalino did assist, yes, sir, he was one that I had in mind that assisted.

Q How about Mr. Gillis?

A Mr. Gillis was very helpful in the law.

Q How about Mr. Doelle, Mike Doelle?

A I never had much discussion with him. It all seemed to go through Mr. Gillis, he would be the man that I would discuss the law with.

Q Mr. Doelle was here?

A He was here, I won't say that they didn't render menial tasks in a small way, and I am sure that they all did, but not to me.

Q I see. But he was here, he is a lawyer, isn't he?

A Yes, sir. In other words, when I would get a brief and I would read it, I don't know which attorneys would

prepare that brief but I never did talk to Mr. Doelle, is that his name? I am not even sure of his name. I know who you are talking about, he is a very nice chap.

Q Yes, sir, I think so. He is a partner or an associate of Mr. Haggerty's in Detroit?

A That's right.

Q That's Mr. Bufalino, Mr. Shenker, Mr. Doelle, Mr. Gillis. How about Mr. Ragano? He signed an affidavit as counsel here assisting Mr. Hoffa.

A He never did assist me.

MR. SILETS: Your Honor, I don't think the record shows that he is a counsel to Mr. Hoffa.

MR. NEAL: He represented to the Court in chambers that he was here.

MR. SILETS: He was a counsel, he was a counselor, just the way you are, Mr. Neal.

MR. NEAL: Well, I believe there is a record in chambers.

End 33a
34 fls

THE COURT: Well, proceed.

A He didn't render me any assistance.

Q He was here to be of whatever assistance he was?

A He was here.

Q He is a lawyer of the Florida bar, is he not?

A I heard him testify so.

Q Now, Mr. Maher was here at various times? For example, he was here taking notes during the Court's charge and summations? So he was assisting at least sometime during the trial?

A But never assisted me.

Q But he was here assisting somebody?

A Yes, he was here. Most of these gentlemen--

Q (Interposing) That is six.

A Most of the gentlemen here testified I think a good many of them.

Q Yes, Mr. Kossman was here, let's see, that is Mr. Maher now, Mr. Kossman was here throughout the trial, was he not?

A Yes, sir.

Q And he was rendering some assistance? Criticizing somebody said here? Is that right? Well, that is debatable.

MR. BRANSTETTER: I object to the characterization, may it please the Court.

BY MR. NEAL:

Q In any event he was here assisting for whatever some assistance he had?

A Well, he was always doing a lot of advising but he wasn't advising me.

Q No, but that is, he was here assisting the defense?

A All of the attorneys that you mentioned were here assisting the defense but as far as me dealing with them I did not.

Q So that is seven in addition to those of record.

MR. SILETS: I'm not sure I understand the inquiry, Your Honor. Is Mr. Neal inquiring whether there were attorneys assisting other attorneys in the case? Or precisely to my examination of Mr. Berke who is an attorney of record for Mr. Hoffa, with me assisting Mr. Berke? I will admit for the record that I have received assistance from a great many people, including Mr. Neal, whether he knows it or not at times.

MR. NEAL: I'm sure you have.

THE COURT: Let's proceed.

BY MR. NEAL:

Q Now, who else? What other lawyers were here? Assisting? We have had seven now.

A I don't know. You will have to mention them. I think you have covered them all but I'm not trying to

eliminate anybody.

Q How about Mr. McToss? Was there a McToss here?

A I don't know who you are talking about.

Q Well, I will go to something else. Now, you gave four instances, one the first one was on January 9, 1964?

Q One was on January 10, 1964?

A Yes, sir.

Q One was, I believe you said somewhere around February 6?

A Yes, sir.

Q And then the other one, the fourth one you didn't remember, when you and your son were going home, I don't believe you were able to designate that?

A No, I couldn't designate that time.

Q Now on the first one, January 9th, that was around the Volunteer Garage?

A Yes, sir.

Q You were coming out of the garage headed out?

A Yes, sir.

Q Where was Mr.--, is that the park that has the pavement there, the gas pump or something around it?

A Yes, sir.

Q You were coming out of there?

A Yes, sir.

Q Where was Mr. Sheets walking?

A Well, I didn't see Mr. Sheets until after I blew the horn and the boys got in the truck so I could get out. Mr. Sheets came right by my automobile. If I had had the window down I could have touched Mr. Sheets, he came that close to me.

Q Did he say hello or anything to you?

A No.

Q Did he look at you?

A No, he didn't.

Q Did he go, did he follow you?

A No, he went the other way and didn't follow me. He was walking.

Q Oh, I see. He went the other way and didn't follow you?

A He walked into the garage and I drove out of the garage and I'm sure couldn't have been Mr. Sheets because he couldn't have been in this automobile that followed me.

Q All right. Now, you say an automobile began to follow you and followed you for some time, I believe?

A Yes, sir.

Q You slowed up and speeded up?

A Yes, sir.

Q It slowed up and it speeded up?

A Yes, sir.

Q It slowed up and it speeded up.

A Yes, sir.

Q Did you get the license plates?

A No, sir. It was at night. Well, the first night and I wasn't even interested. I wasn't interested in the license plates. I wasn't going to do anything.

Q So there is no way that we can determine whose car that was?

A I cannot.

Q You cannot say that was an FBI car at all?

A I can't say who it was. That's right.

End 34
34 A fol.

Q Did you happen to see the person in the car?

A Other than there was a man in the car.

Q But you couldn't identify him?

A I couldn't identify him.

Q Now, the second time when the second--was the next day January 10, 1964?

A Yes, sir.

Q When you went home and your son, Marvin, followed the car that followed you?

A That's right.

Q Did he get the car's license plates?

A I think he got some license numbers. I don't know. You will have to ask him. I didn't get any. The truth about it is--

Q (Interposing) Is he going to take the stand so I can ask him or shall I ask him?

A My eyes are not really good enough to read license plates in the daytime unless I get within 10 or 15 feet of the plate. I have to wear glasses and I don't wear glasses when I drive. I use them to read.

Q Is your son going to follow you to the stand on this matter? I would like to know.

A I don't know if he has the license numbers with him or not.

MR. NEAL: May I ask Mr. Berke, your Honor, Mr.

Marvin Berke if he does have the license number?

MR. BRANSTETTER: We are going to put him on the witness stand.

THE COURT: Let's proceed.

BY MR. NEAL:

Q But you didn't get the license number the second time, the 10th of January?

A I didn't get the license number of any cars any night.

Q So you can't say that one to whom the car belonged or who was in it?

A No.

Q How many people were in the car the second night?

A Two.

Q The first night, how many?

A One.

Q And on the third occasion out at the urban renewal district, you say you were in your son's car, License No. 4U-8888?

A Now, that is not the third time I was followed. That is the third time where I described the following. I was followed every night up until the jury was sworn except for two nights that I was not aware of anybody following me. Now, that does not count Saturdays and Sundays because I was not followed on Saturdays and Sundays as far as I know.

Q The jury was picked what date? January 23rd?

A I think the 23rd, but I am not sure about that.

Q It couldn't have been that, but, in other words, there were two occasions that you say you were followed? You think you were followed?

A Oh, I was followed on that--

Q (Interposing) Wait a minute. Wait a minute. After the jury was picked?

A Oh, yes.

Q Two identifiable events after the jury was picked?

A Yes, sir.

Q The record will say when the jury was picked.

A Yes.

Q Now, the first then the time after the jury was picked was the urban renewal?

A No. I would say that was the last one.

Q Then the other one--then the first one after the jury was picked when you and your son were going home?

A Yes, sir.

Q Were you able to get the license plates of the car then?

A No, sir, it was behind us.

Q It was at night? Dark?

A It was at night and it was dark.

Q How many people were in the car?

A I am not sure.

Q All right, sir. Now, at the urban renewal district thing this is the last time you say this, this occurred about February 6th?

A Yes.

Q Around there and your son's License No. 4U-8888?

A Yes, sir.

Q Now, in the transcript of this tape that we have talked about, Defendants' Exhibit No. 249, there is a reference to a license plate, 4U-8888. I would like to read part of that because only part of it was read. Mr. H. and three others getting into a white Pontiac, which is parked up the street from Market. Is our package with them? Uh, then line. Uh, I guess we can't touch that. Then the next thing, see if I can get the plates. The plate on it is 4U-8888. That sounds familiar. I believe that is one we had before.

THE COURT: Are you asking a question?

MR. NEAL: Well, maybe it is argument. Certainly doesn't sound like surveillance of that car on that night.

THE COURT: Let's ask some question that is relevant.

MR. NEAL: I guess that is all. Just a moment, your Honor. That is all.

REDIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Neal read you this. He said that sounds familiar. I believe that is one we had before. Yes, I think that is one of the cars rented to the Teamsters Local. Campbell, Mister--Mr. H. sure was jumping. His head was like a radar script. That was a continuation, you heard Spindel testify to that?

A I don't know when Mr. Hoffa went out. We were checking to see and Mr. Hoffa was turning in all directions to see if anybody was following us. And when I got the transcription, why, I remembered then that was it. Of course, I think all of us were watching pretty carefully.

THE COURT: All right. Anything further?

MR. BRANSTETTER: That is all with this witness.

THE COURT: All right. Let's adjourn--

MR. BRANSTETTER: (Interposing) May it please the Court, could I make a statement with reference to this? It is entirely possible that we will just have one more witness on this particular proceeding.

THE COURT: You want to put him on this evening?

MR.BRANSTETTER: I think so.

THE COURT: Put him on then.

End Tk 34A
Tk 35 fls

MR. SAULPAW: Raise your right hand. Do you solemnly swear that the evidence you give in this case will be the truth, the whole truth, nothing but the truth, so help you God?

MR. MARVIN BERKE: I do.

MR. BRANSTETTER: Could I inquire is the government going to put on proof? If we can close tonight, we will try to proceed to do so. If not, however, we would prefer to go to a regular route of the court procedure and adjourn at this time.

THE COURT: If what?

MR. BRANSTETTER: If the government, if we cannot conclude this evening totally on this particular matter, we would prefer to adjourn at this regular hour.

THE COURT: Let's go ahead with this witness.

MR. SILETS: May I inquire, your Honor, if the government is going to put on any proof?

MR. BRANSTETTER: We are trying to be very frank.

MR. NEAL: Unless this witness has something remarkable, the government doesn't see any necessity.

MR. SILETS: All right.

MR. NEAL: It's sort of in the position of moving for a directed verdict.

MR. BRANSTETTER: I got in that position and lost.

MARVIN BERKE,

a witness called at the instance of the defendants on the motion on surveillance, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Will you state your full name?

MR. NEAL: If the Court desires, we can call as many agents as necessary. I can't see any basis for it.

MR. BRANSTETTER: I can see the basis for it, Mr. Neal.

THE COURT: Let's proceed, gentlemen.

BY MR. BRANSTETTER:

Q Would you state your full name, please?

A Marvin Berke.

Q What is your occupation or profession?

A I am an attorney-at-law.

Q How long have you been an attorney-at-law?

A Around three years.

Q Licensed to practice in the State of Tennessee?

A Yes, I am.

Q All state courts and federal courts?

A And the District Court, in the Federal District Court, and all state courts.

Q Are you an attorney of record in the case of

United States versus James R. Hoffa, et al, that has been on trial here since at least January 20th?

A Yes, I am.

Q Have you participated in the proceedings each day during the progress of this trial of United States versus James R. Hoffa, et al?

A Yes, I have.

Q Have you been present in the courtroom actively participating throughout?

A Yes.

Q When did you begin your participation in this particular lawsuit preparation?

A I believe it was around January 9th, but I am not sure, I think January 9th or 8th or 10th.

Q All right. Would you state whether on or about January 9th, or following that time, you became aware that you were being surveilled, observed, followed, watched, checked on, or in any manner observed by some method?

A Most definitely, Mr. Branstetter.

Q When did this first begin?

A Well, I was warned by Mr. Haggerty on our first few conferences if we got involved in this case I could expect that.

Shortly after we accepted the assignment of representing Mr. Hoffa, my father had informed me that -- of

the incident he spoke of concerning Mr. Sheets. The following night he left earlier than I did, just a couple of minutes, and we walked -- as we walked into the garage together there was a car parked on the landing between the first floor and the second floor. We could see two men in there and the motor was running.

We got in, went up to our respective cars, he was parked on the third floor and I was on the fourth floor. I waited a few minutes and then I started down. As I started down I saw the car which was parked on that landing go immediately behind him, I'd say 20 seconds after he got down to the ground level.

The car that was parked on the middle level there started down the ramp after him. I waited a second or two and then followed. As I got down toward the bottom ramp there a black car moved in front of me. On that occasion I was not able to follow the car that was following him, however, I did so on a later occasion.

One of those following nights, I could not give you a date, I couldn't even give you the exact time, it was somewhere around six to seven o'clock at night I was leaving to go home and we had the same arrangement that I was to follow the car that was following him.

On that occasion I did follow. I got the license number. As I remember, I checked it out. The license

number which I got, I believe, and this is just generally speaking, it did not belong to a car that was following him, in other words, the license number was registered to a Ford, this car was a, I think, a Plymouth, or an Oldsmobile or something, I don't really remember, and I just -- at that time I had no idea that this hearing would ever come up and I just threw the license number away.

Q Did you check the license number?

A Yes.

Q In the Register's office?

A Yes, I did.

Q You state that that particular license number on that car was assigned in the Register's office for this county to an entirely different make or type of car?

A County Court Clerk of Hamilton County.

Q I am sorry, County Court Clerk.

A That's right, it was assigned to a different make car.

Q Now, on other occasions did you get license numbers on any other occasion?

A I think on one other occasion I got a license number and the same thing was true, it was registered to a different car.

Q Registered to an entirely different car?

A In fact, I think it was registered to someone

as trustee, someone I had never heard of as trustee, and it didn't even match the automobile.

Q Now, state whether or not you got an automobile license tag number from some other county when you were being followed by an automobile?

A Yes, I did, and that I tried to check out and actually I have been in court, I have never had time to check it, I threw it away before this, before I ever knew there was going to be a hearing on surveillance.

When this first started I thought it was rather funny, but after a while it got to be a sort of a harassment, every place I would go there would be somebody behind me. This was just for the first week or so.

Q You heard the testimony of your father here also. Did this procedure last through the selection of the jury and the swearing in of the jury?

A It followed through the selection of the jury and I believe -- dates become a blur to me since this thing started, we have been going on for seven weeks, I believe that it lasted into the next week because I remember one instance that it happened and I believe it was the next week, although it might have been the first week. I was working in my office, which is on the corner of the eleventh floor of the Volunteer Building and I was drafting a brief, dictating a brief into a recorder, and it got to be about

10:00 or 10:30 and I met a friend of mine at Edmund's for a bite to eat before I went home.

On that occasion, as I left, I was picked up and followed. My friend, who has no connection with this case, just happened to be working, also told me -- of course, this is hearsay -- he told me that he was followed, too. Of course, I don't know, I didn't see any car following him.

Q What type of automobile do you own?

A I own a 1961 white Pontiac four-door.

Q What license number?

A 4U-8888.

Q You heard the testimony previously with reference to an incident on the 6th of February. Do you recall that incident?

A I recall the incident. I assume it's on the 6th of February, it was around that period of time.

End 35
36 fls

Q Were you driving the car on the occasion that you and Mr. Berke, your father, Mr. Hoffa, and Mr. Morris Shenker got into the car?

A Yes, sir, I was.

Q And where was the car parked when this occurred?

A My car was the first car on Columbia Street which is right at the edge of the Patten Hotel. It was parked on the corner actually of 11th and Columbia Street right at the Patten Hotel. We had tried to discuss some affairs and we were afraid that the rooms were bugged or that we would be overheard by some listening device and we decided to drive some place where we could talk.

Q When did you first know you were picked up, being followed on this occasion?

A On that occasion I believe we went down to Broad Street and noticed a car there. We were going to turn left. When we first saw the car we decided to turn right and we turned right and went as Harry Berke has described into the west side development which where there is nothing. It is absolutely desolate and the car followed us there. When we slowed down the car would slow down.

Q Did you get a license number on that occasion?

A No, sir, I didn't. The car passed me. I couldn't get it. I couldn't see it.

Q Do you know George Hicks or a Mr. Hicks that

the government stated they had been surveilling?

A I met Mr. Hicks one time before yesterday. I saw him again yesterday. And I had just--, someone introduced me to him. That is the only time I ever met him.

Q Has he ever been in or about your automobile that you know of?

A Not that I know of.

Q Do you know a Mr. Test? (Spelling) T-e-s-t?

A I believe that I was introduced to him but I couldn't--, if he were in the audience I couldn't tell you. I wouldn't recognize him.

Q Has he ever been in or about your automobile?

A Not that I know of, sir.

Q Was it a John Cleveland, do you know a John Cleveland?

A This John Cleveland that they apparently had a surveillance on is some official in the Eastern Conference of Teamsters. I don't know his exact title but the Defendants Campbell and Parks were, of course, they both are colored gentlemen and they were worried about this surveillance that was being carried on. And I believe that Campbell asked Mr. Cleveland to accompany them. I believe that is what happened. Of course, most of the places they went, Cleveland was with them.

Q Were you observed this--

A (Interposing) When I saw them, Cleveland was with them.

Q Was Cleveland ever in or about your automobile?

A No, sir.

Q Do you know Mr. O'Brien, Charles O'Brien, Chuckie O'Brien, I believe?

A Yes, sir, I do.

Q Was he in or about your automobile on the occasion that you described on the 6th of February?

A No, sir.

Q Was he on any other occasion that you recall?

A I can't remember any occasion that he was in my automobile. It is possible that he was but I can't remember any occasion.

Q Do you know Spindel? The witness that testified?

A Yes, I met Mr. Spindel.

Q Was he ever in or about your automobile that you know of?

A I don't think so.

MR. BRANSTETTER: I believe that is all.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Berke, you have heard your father testify that after the jury was selected he only knew of two other instances in which he thought he was being followed, one of

which was the time you and he were driving home I believe and the other the last time was this Urban Renewal incident?

A I heard him testify to that.

Q Is that the last time that you thought you were being followed?

A No, sir.

Q Pardon me?

A No, sir.

Q You have been followed since then?

A Not since--, I don't know of being followed since this last incident to the Urban Renewal.

Q That is what I'm talking about.

A I don't know, of course, they might have been gotten--

Q (Interposing) You haven't picked anything out as the way you have that? I mean that is the last time that you were aware that you were followed?

A To the best of my memory, that's correct.

Q And that was around February 6th?

A I assume so.

Q Now, do you have--, are you--, after the jury was picked, two instances as far as you are concerned then.

A No, I think there were more instances.

Q More as far as you are concerned?

A Yes, sir.

Q You being surveilled and your father wasn't then apparently--

A (Interposing) No, I didn't say that. I said I was being followed also.

Q Do you have any reason why anyone would follow you, Mr. Berke?

A No, sir. I never thought that would happen in a free country.

Q Can you think of any earthly reason why anybody would want to follow you?

A I don't know of any laws I had violated. Of course, I might have speeded once in awhile.

Q I can't either. Can you think of any reason why anybody would want to follow you?

A The only reason, Mr.Neal--

THE COURT: (Interposing) Now, gentlemen.

MR. BRANSTETTER: I would like him to answer.

THE WITNESS: I think you are trying to hinder the progress of the defense or whoever was doing it, the FBI.

THE COURT: Now, gentlemen, you can argue your case before the Court. But not from the witness stand. Mr. Berke, can you identify any FBI agents that ever followed you?

THE WITNESS: No, sir. It was all at night-time.

And I don't know most of these agents. I have never seen half of them. I have a hard time keeping up with the ones in Chattanooga.

THE COURT: Mr. Harry Berke, may I ask you the same question, can you identify any FBI agents that ever followed you?

MR. HARRY BERKE: No, Your Honor, I couldn't. Just the automobiles, Your Honor, is all.

THE COURT: All right. All right.

MR. HARRY BERKE: I might state, since the Court asked me, I do recall one occasion when I had Mr. Hoffa in the day-time if the Court wants to inquire about that. I recall it now.

MR. BRANSTETTER: I would like to inquire about it.

THE COURT: All right, allow him to return to the witness stand.

End 36
37 fol.

HARRY BERKE,

a witness called at the instance of the defendants, having been previously duly sworn, was recalled and testified further as follows:

REDIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Berke, you are Mr. Harry Berke?

A Yes.

Q You stated you did recall, when the Court asked you a question of another incident during the daytime when you were with Mr. Hoffa. Would you state what that was?

A I was reminded that during the noon recess Mr. Hoffa and myself got into an automobile. Now, I don't know who the driver was, I think Mr. Hoffa can help you, give you the name of the driver because I don't know the driver, and we were going to go out and discuss the facts of this case.

Q Could I ask you, was it Joe Bates who was the driver?

A Well, I don't know the gentleman, the first time--

Q (Interposing) Go ahead.

A As soon as we had turned to go east on Main Street, we noticed another automobile had followed us and we went north on Lindsay Street and then this automobile continued to follow us and we went across Lindsay Street to

Oak Street and we were headed for the Labor Temple and were followed up to the Labor Temple and when we parked I didn't see the car any more. We sat in the car and we talked a while and then they drove us back and dropped us off at the Hotel Patten but we took a circuitous route to get to the Labor Temple and I was looking back without trying to be obvious, of course, and this car did follow us.

Q Do you know George Hicks?

A Yes, sir, I know George Hicks.

Q He was not driving this car on this incident?

A No, sir.

Q Do you know a Mr. Test--well, just let me ask you here, was a Mr. Hicks, a Mr. Test, a Mr. Cleveland, a Mr. O'Brien, a Mr. Spindel driving this car on the occasion that you speak of?

A It was not any of those.

THE COURT: All right, all right, sir. Very well, gentlemen. We will continue the hearing at nine o'clock in the morning.

(Witness excused.)

THE COURT: Now, following this hearing, will there be any witnesses offered in regard to the motion on Shobe?

MR. SILETS: We will rest on that record as it stands now. We won't call anyone.

MR. BERKE: If your Honor please, we think we have some exhibits we would like to introduce. There will be no more oral testimony.

MR. BRANSTETTER: We don't anticipate any more oral testimony on this particular matter.

MR. BERKE: We have some exhibits.

MR. BRANSTETTER: But some exhibits. You are talking about--I believe the Court was inquiring about another matter.

THE COURT: Yes.

MR. SCHIFFER: Shobe.

MR. BERKE: Was the Court inquiring about the Shobe matter?

THE COURT: Yes. I was inquiring about both matters. In fact, as I understand this matter, you desire to offer some further exhibits tomorrow?

MR. BRANSTETTER: I think that will be--

MR. BERKE: (Interposing) Well, if your Honor please, we can do it now. We thought the Court was going to adjourn. We have now the transcript of the tape recording between William E. Bufalino, Bill Cook and Fred Shobe, which is transcribed by Casey B. Smith, a competent court reporter, and we have it in proper form where it is more intelligible now and they were able to get better sound on it. I know the Court had much difficulty in getting the tape and we

would like to have this filed and identified as an offer of proof.

THE COURT: All right. File it as the next exhibit number.

MR. SAULPAW: No. 254.

(The two volumes of transcript of recording referred to above were marked Collective Exhibit No. 254 for identification only.)

MR. HOOKER: Is that everything, Mr. Berke?

MR. SAULPAW: There is two volumes, how about marking them as 254 and 255?

THE COURT: There are two volumes, is that correct, are there two volumes?

MR. BERKE: Yes, two volumes.

THE COURT: Of Shobe?

MR. NEAL: I understand then that closes their proof on all motions.

MR. BERKE: We also have another offer of proof. This can be stipulated and I think there's some evidence in the record on that anyway. We would like to show the Court--

MR. NEAL: (Interposing) No. I don't know what this is. We certainly are not going to agree. They can't use an offer of proof in that manner. They have made the record and that is it.

MR. BERKE: We won't close then. We will just introduce proof to show that. We just want to be sure there

is no misunderstanding that that was part of the proof.

MR. NEAL: The witness' testimony would be the witness' testimony, but to come up here with an offer of proof is not proper and they want a stipulation.

MR. BERKE: Well, let's let the Court see that. I think that would be the best way.

MR. NEAL: Your Honor, the government's position on that is to call their proof.

MR. BERKE: If your Honor please, one of the witnesses said that the TVA had loaned them some of the space another agency, and that they took their surveillance position from that area. We just want to be sure there is no misunderstanding.

MR. NEAL: I tell you there is no misunderstanding; the government objects that that be accepted as an offer of proof.

THE COURT: Well, all right. Gentlemen, of course, the Court can not require any stipulation on any matter. Whatever is in the record, if you desire the Court to consider it the Court will consider whatever is in the record.

MR. BRANSTETTER: May it please the Court, we think we would be through with the proof, since this matter has come up I just saw it, too, I think that it would be appropriate that we not close our proof on this matter until

in the morning, if we have any, I don't know if we have.

MR. BERKE: We have a chance to check the record.

MR. NEAL: We want to get out of here. I have been away from my wife for eight weeks.

MR. BRANSTETTER: He isn't the only one that has a wife and children. I have been away a long time, too, I am in a hurry.

THE COURT: Well, gentlemen, let's be in position tomorrow morning then, if the government has any proof they wish to offer or any testimony they wish to offer on the motion regarding surveillance or on the motion involving the transcript of the Witness Shobe be in position to offer that proof tomorrow.

Now, do I understand that the defendants do not propose to offer any further FBI agents that may be under subpoena?

MR. NEAL: Could I inquire?

MR. BRANSTETTER: What we are seeking to establish, may it please the Court, is the position to show the relationship--let's put it on the table here--the posts that were occupied by these observers, that they admitted they stationed, you see, to show where the points of observation were, to show the area where the attorneys for the defense were being observed and in the various areas.

MR. NEAL: They said what they could observe and

what they couldn't observe. The point where they observed is not pertinent.

MR. BRANSTETTER: Be fair about it.

THE COURT: Well, gentlemen, if there are FBI agents that the defense proposes to use tomorrow can you not name then now and then any others that are not needed can go about their business?

MR. BRANSTETTER: Could I inquire if Mr. Barrett knows specifically, Ingram and Barrett would know specifically where the posts were, right?

MR. NEAL: Well, your Honor sustained the objection to the posts. Your Honor will remember he said they were up there until the jury was picked when all that was ceased, they had a position in some part of another federal agency building and when they asked what agency and what building the Court sustained the objection to it. That is what--if they want to now go overrule the Court's objection.

End Tk 37
Tk 38 fls

MR. BRANSTETTER: We would like to reserve Hawkins, Barrett and Ingram. The others may be released as far as we are concerned.

MR. REDDY: Who is that?

MR. BRANSTETTER: Hawkins, Barrett, Ingram, is it?

MR. NEAL: Ingram.

MR. BUFALINO: Schultz.

MR. BRANSTETTER: Schultz.

MR. NEAL: Schultz?

THE COURT: All right.

MR. NEAL: No, I don't think the FBI would want that. We are objecting to that.

MR. BERKE: All right.

MR. NEAL: Whatever the Court rules. Your Honor, if Your Honor--, if you have passed on that and Your Honor--, The government is in this position, Your Honor, the witnesses have taken the stand. They have testified that there was no surveillance of the defendants or their counsel. Now, we are in this position, we don't know what the government can offer. There is nothing to rebut.

THE COURT: That is up to you gentlemen to decide, it is not up to the Court to decide. If you want to offer anything, offer it. If you don't have anything to offer, the Court will decide the motion as soon as the

defendants rest their proof. Likewise as to Mr. Shobe, if you have anything you want to offer on that motion, offer it. If you don't have anything to offer, you can announce that tomorrow. But let's adjourn this evening.

(Thereupon, at five o'clock p. m., court was adjourned until nine o'clock a. m., March 6, 1964.)

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on March 5, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 5th day of March, 1964.

Fred B Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Bufalino

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	
vs.	:	[redacted]
	:	
	:	No. 11,989
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 25, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXVIII

PAGES 7175 TO 7480

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
215	Transcript of telephone conversation, 10/8/62	7179	
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217	Tape recording, Mr. Pitcher, sealed	7180	
218	Hoffa airplane coupon and travel bureau receipt	7266	7266
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221	Photograph	7415	7416
222	Photograph	7415	7421

TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
223	Photograph	7415	7418
224	Photograph	7415	7420
225	Photograph	7415	7419
226	Photograph	7415	7418
227	Photograph	7415	7418
228	Photograph	7415	7419
229	Envelope and hotel registration	7452	7454

9:00 O'Clock A.M.
February 25, 1964

(Thereupon, pursuant to adjournment from February 24, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Yes, Mr. Schiffer.

MR. SCHIFFER: Your Honor, may I address the Court briefly? In connection with the matter that I brought to the Court's attention yesterday I should like to refer to a memorandum filed by Judge Gray in this case on August--

THE COURT: (Interposing) Is this in regard to the telephone transcription?

MR. SCHIFFER: Yes, sir.

THE COURT: I might shorten that. I planned to make those available.

MR. SCHIFFER: I see, your Honor. On another issue, however, connected with it, I should like to read into the record, if I may, your Honor, the fact that in this memorandum Judge Gray, at Page 5, is speaking of this very issue, and since our defense in this case is the frame-up and fraud practiced by the prosecution on the Court, the Judge stated thusly, "On a pre-trial motion seeking determination of factual matters the moveant should ordinarily be

prepared on the outset of the hearing to present proof of facts already learned, et cetera."

And that is in connection, your Honor, with my motion in that case on the wire tap and Judge Gray, at Page 26, specifically states as to the illegal obtainance of evidence, "The defendants actually had a limited hearing in default of government objection by asking improper questions on cross examination of government witnesses called on other matters. The defendants never suggested any basis to justify such an inquiry other than," and this I specifically quote, "the unworthy suggestion of one counsel." And I might say, your Honor, I am the counsel in that case who made the suggestion.

"Again the defendants never suggested any basis to justify such an inquiry other than the unworthy suggestion of one counsel that the Court should take judicial notice that wire tapping is a government custom."

And on that score, your Honor, on Page 27, his Honor then goes on and states thus, "The defendants showed nothing on which to base any discovery as to matters pertinent to any pre-trial motions."

I should like to draw your Honor's specific attention to the fact that in reading this entire memorandum at that time the government, before Judge Gray, virtually denied the existence of the very evidence which is now before

13-1

your Honor and which was exposed, not by the government but by the assiduity and this Court assisting the defense to that degree in exposing what really happened on the record here where they tried to hide from the defendants and the Court what they, themselves, had denied existed before.

End Tk 1
Tk 2 fls.

THE COURT: All right.

MR. SCHIFFER: I would like to know, your Honor, that giving it to us, of course, at this time is something which we cannot correct on this record because the case has proceeded to this point of the trial already and anything the Court might attempt to do for us at this time, of course, so far as any fruits from it we can derive from it comes too late.

THE COURT: All right. Any other matters from counsel?

MR. BERKE: Did the Court say that we would have those, if your Honor please?

THE COURT: Yes, sir. Yes, sir.

MR. BERKE: Is there any reason why we can't have them instantly at this moment?

THE COURT: No, sir. No reason in the world.

MR. BERKE: I can't hear your Honor.

THE COURT: No, sir, no reason in the world. The Court expects to make them available first thing this morning.

MR. BERKE: All right, may we have them, if your Honor please?

THE COURT: I just want to see if there are any other matters on any motion.

MR. HAGGERTY: No further matter on a motion, your

Honor, but there is a mistake that I caught last evening in the record at page 6372, for February 20th.

THE COURT: 6372?

MR. HAGGERTY: Yes, your Honor. Line 14. The record refers to Hoffa instead of Broda. From the text it is obvious that the word should have been Broda (spelling) B-r-o-d-a.

THE COURT: All right. Likewise on the transcript yesterday at page 6932 --

MR. HAGGERTY: (Interposing) 6932, your Honor?

THE COURT: 6932, at line 14. The word as used in the record was "thank," (spelling) t-h-a-n-k, whereas the correct word was "think," (spelling) t-h-i-n-k.

All right, the Court has opened the sealed Exhibit No. 118 and has removed therefrom what purports to be a transcript of a telephone conversation alleged to have occurred upon October 8, 1962. That will be filed as the next exhibit in order and made available to the defendants. Exhibit number what?

THE CLERK: No. 215, your Honor.

MR. BERKE: Is that for identification?

THE COURT: Filed for identification, yes.

(Transcript of telephone conversation referred to above was marked for identification as Exhibit No. 215.)

THE COURT: From the same sealed envelope No. 118

exhibit, the Court has removed what purports to be a transcript of a telephone conversation undated.

MR. HAGGERTY: Did you say undated?

THE COURT: The paper is undated in any respect. The Court understands it purports to relate to the telephone conversation upon October 18. Let that exhibit be filed for identification as Exhibit No. 216.

THE CLERK: Yes, sir.

(Transcript of telephone conversation October 18th referred to above was marked for identification as Exhibit No. 216.)

THE COURT: Now, then, gentlemen, the Court has listened to the tape introduced by the Witness Pitcher and the Court is unable to find anything in that tape that would be relevant, material, or admissible in this case. The tape has been sealed and will be filed as a sealed exhibit. The next exhibit. No. 217?

THE CLERK: 217, that is a sealed exhibit, your Honor?

THE COURT: Yes, sir.

(Tape recording referred to above was filed as a sealed exhibit and marked for identification as Exhibit No. 217.)

THE COURT: There has been delivered to the Court by the marshal's office the subpoena duces tecum served upon Robert Urdahl upon which a motion to suppress has been filed by the government under date of February 24th. This subpoena

should be filed as a part of the court record. Having considered the subpoena and the motion to suppress, the Court is of the opinion that the motion to suppress should be sustained.

End 2
3 fls

MR. HAGGERTY: May it please the Court, in reference to this Urdahl subpoena, we would like the reasons for its being quashed.

THE COURT: Beg your pardon?

MR. HAGGERTY: We would like the reasons for its being quashed.

THE COURT: Well, the Court is of the opinion that the subpoena is entirely too broad. This asks, without any basis for all tapes, recordings, memorandas, reports, inter-office memoranda, in writing or mechanically recorded or any transcriptions thereof in connection with any means relating to this cause, more specifically the James R. Hoffa and/or Edward G. Partin.

The Court is of the opinion that on the face of the subpoena it is entirely too broad.

MR. HAGGERTY: I stated to the Court yesterday morning that I originally had information which warranted the issuance of the subpoena in that form.

I stated to the Court yesterday morning I had further information and, therefore, all I desired was Mr. Urdahl to be presented as a witness for examination in accordance with my best information and I would like to state to the Court my purpose in good faith in bringing Mr. Urdahl here.

THE COURT: All right.

MR. HAGGERTY: First as to his discussions with Mr. Grimsley, all I desire from him, if he had a copy of the record or transcript of the recording of the 8th or the 18th, what arrangement he made or authorized to pay Mrs. Partin certain sums of money. What, if anything, was promised to Partin in reference to the various federal actions pending against him.

Now, while it is true that Mr. Urdahl is in the position of chief of the appellate division, it is my information that he was the man in the Washington office of the Department of Justice that supervised and directed these arrangements.

I think that I am entitled to have him as a witness for those purposes. I have waived all of the rest of the subpoena, namely, the production of records and so forth, and I now say that I waive the records and transcript of the record of the 8th and the 18th in view of Your Honor's action this morning.

THE COURT: I believe, Mr. Haggerty, the proper method would be to rather than attempt to amend your subpoena would be to issue a new subpoena. It just seems to me that that would accomplish exactly the same result.

MR. HAGGERTY: We are getting near the end.

THE COURT: I assume he can be available just as quickly one way as the other.

MR. HAGGERTY: Well, we are getting near the end of the proof in this case, Your Honor, as far as the defense is concerned and I presume that the government is going to have rebuttal. Now, he is not a witness for surrebuttal, he is a witness under our direct case and that is the reason I ask the Court's indulgence to have him appear as a witness to testify so it will be in order and it will be in the proper place in the proof.

THE COURT: Certainly you are entitled to have a subpoena issued for him. I believe rather than attempt to amend the subpoena which has been filed and served that a subpoena should be issued ad testificandum and I assume that under any such subpoena he could be made available just as quickly under that as he could under the former subpoena, in any event, as I have no understanding whether he is present or not.

MR. NEAL: Your Honor, if they think Mr. Urdahl has any information to give, I know he does not, he knows nothing about this but if they want him here we will undertake to have him down here because the defendants have no surrebuttal in a criminal case.

THE COURT: Well, work that out among counsel, if you will.

MR. HAGGERTY: All right. Does Mr. Neal undertake that he will have him produced?

3-4

MR. NEAL: We will have him here at the earliest possible plane from Washington.

MR. HAGGERTY: Well, we want him here tomorrow.

MR. NEAL: Would the earliest possible plane be all right?

MR. HAGGERTY: Make it quicker it would be better.

THE COURT: All right.

MR. NEAL: Of course, this will be your funds, Mr. Haggerty, you will undertake to reimburse us for that.

MR. HAGGERTY: Oh, yes, we are not cheap.

MR. NEAL: I am sure you are not.

THE COURT: All right. Just a moment, gentlemen.

MR. HAGGERTY: By the way, Mr. Neal, there is a plane at 1:45 that leaves Washington.

MR. HOOKER: So long as we produce him so we can have him in the morning, will that be sufficient?

MR. NEAL: He leaves there at 1:45 he won't get here until after court adjourns.

MR. HOFFA: He will get here at 3:30.

MR. HOOKER: All right. We will make an effort.

MR. NEAL: If he can do it, I don't know whether he can.

THE COURT: Exhibit No. 199 was admitted for identification purposes only.

All right. Let's call your first witness.

End 3
k 4 fol.

TK 4
EW 1

MR. BERKE: Just a minute, if your Honor please. If your Honor please, in view of the fact that these exhibits have just now been handed to us, and other counsel have demanded to see it, we would like to have a 15-minute recess, if your Honor please, so we can see what progress we want to make with reference to these exhibits, how, if any might affect the introduction of proof by the defendants. We've been trying to get these exhibits for weeks now. And we think a reasonable request, we are entitled to that.

THE COURT: Well, we will take a 10-minute recess. The transcripts are quite short. Let's take a 10-minute recess.

MR. NEAL: At that time when the recess is over we will file answers to all of the other things including the motions for production.

THE COURT: All right. Let's take a--

MR. SCHIFFER: (Interposing) Your Honor--

THE COURT: Yes, sir.

MR. SCHIFFER: Yesterday I had inquired yesterday with reference to the two FBI statements of Carl Fields and the two of Patrolman Walker and your Honor suggested to hold that until today. You were going to check the records.

THE COURT: Yes, sir, and I didn't get an opportunity to do that last night, Mr. Schiffer.

MR. SCHIFFER: I see.

4 - 5

THE COURT: That is on Walker and Fields, isn't it?

MR. SCHIFFER: Yes, sir. Carl Fields.

MR. BERKE: If your Honor please, the government was supposed to respond to several of the motions that the Court has ordered them to do that. He says when he gets back from recess he will respond. That process will require another delay. Why can't we have them now?

MR. NEAL: Not going to get anything voluntarily, your Honor. We have answers to their motion for production.

THE COURT: The Court will have to study any response in any event and the defense will have an opportunity to study any response. Let's take a 10-minute recess.

(Thereupon, at 9:20 o'clock A.M. court was in recess.)

End Tk 4
Tk 5 fls.

MR. SILETS: Your Honor, could we wait just a moment? I see some of the counsel are not in the courtroom.

MR. NEAL: I filed four documents with the Court and served counsel. One is the government's response to the defendants' repeated claims that they are entitled to an immediate hearing on alleged telephone interception. Incidentally, there is no proof of illegality.

Government's response to defendants' motion to suppress grand jury testimony and dismiss indictment because they were recalled before the grand jury.

Government's response to defendants' motion to require the government to disclose whether or not it has additional electronic recordings of any conversations, including the defendants.

Government's response to Defendant Dorfman's motion for mistrial.

Those four are filed, copies are served on all defendants.

MR. DALE: Do you want them filed?

THE COURT: File them and return them to the Court. Yes, Mr. Silets.

MR. SILETS: Your Honor, now if I may just make a statement for the record, the Court has now after -- today is the 25th -- after 19 days the Court has turned over the contents of Exhibit No. 118 and has marked them as being

Exhibits 215 and 216. These are the recorded conversations purportedly taking place on October 8th, 1962, and October 18th, 1962, between the Defendant Hoffa and the Witness Partin.

If the Court will recall on February 6th, 1964, on the examination of the Witness Partin on cross examination by Mr. Berke, Mr. Berke began to inquire of Mr. Partin concerning the matters which occurred two or three weeks before his appearing in Nashville. At that time objections were raised by the government and Mr. Neal --

THE COURT: (Interposing) What page of the transcript?

MR. SILETS: 3509 and following. Now, Mr. Neal made a statement that he wasn't trying to exclude evidence from the Court, but when the Court overruled the government's objection, Mr. Neal, page 3510, said then, "Your Honor, I think the jury should be excused momentarily."

And then I believe the Court, if I have the correct pages, the Court ordered us to go into chambers -- I am mistaken, and at page 3512, it was actually in the courtroom, excuse me, we had this and the public was excluded and from pages 3512 to 3535 Mr. Neal raised a new matter and suggested to the Court that new matter as a proper basis for excluding this line of relevant inquiry by Mr. Berke.

Now, your Honor, this is, of course, the first

moment, some 19 or 20 days later, that the defense has had an opportunity to actually ascertain whether the inquiry at this time was relevant or not. The government, of course, knew from the outset what the basis for their objection was, in fact, when we examine Exhibit 215 we see that the matters there are completely relevant because they pertain to the Witness Partin's encouraging Mr. Hoffa to invite him to Nashville and from thence his appearance in Nashville to become and did become an informant for the government.

Now, I say to your Honor, this, and I so move, that the Court has no basis, other than at this moment to enter a judgment of a mistrial by withdrawing a juror because now after these almost three weeks when we could have had the opportunity to inquire into this relevant area and examine witnesses and produce witnesses into this relevant area we now discover that what the government had originally represented as pertaining to an entirely different matter is not, in fact, pertaining to an entirely different matter but relevant, competent, and material to the issues at hand.

Now, last evening I pointed out to the Court one of the errors that I think, with all due respect to this Court, has indulged itself in, and that was to permit the Witness Partin, and subsequent witnesses, to sit on that witness stand and make their own determination what was relevant and what was competent and what was material by saying,

"No, that pertained to a matter entirely different to that which this lawsuit is about."

When the Witness Partin was on the stand and I myself was cross examining him, I inquired of him concerning the matters preceding his appearance in Nashville.

End 5
6 fls

I asked him about these conversations. I tried to elicit information about these conversations and each time the Witness Partin said to me that related to some other matter. The Court sustained the government's objection and refused to permit me to make that inquiry. Had I seen this document, Exhibit No. 215, and had the Court made this public this Witness Partin could not have at that time said to the Court this was not relevant to the matters at hand.

This Court in good conscience should have at that time pointed out to the defendants the contents of this matter and, as a matter of fact, the calamity perfidy of this matter is pointed out by the actions of the government because if no one else knew the government knew that at the time their own witness was on the witness stand he, himself, was perjuring himself when he said the matters I was seeking to inquire of did not pertain to the issues of this case.

As a matter of fact, they are the very onset of the issues of this case. It is at this moment that the witness seeks to have Hoffa invite him into Nashville. It is from that and flowing from that that all of his testimony arises. The government knew this and yet they were willing to sit still and even object to my constant insistence on this Court to examine this witness and object on the basis that the Witness Partin suggested that it was not relevant to the matters at hand.

In fact, had we known this and had the government in their good conscience turned this over to the Court and made public to the defense the matters contained in this Exhibit No. 215, we would have had the opportunity for, lo, these almost three weeks to present our defense in a fashion other than we have.

Now, your Honor, the cases are legion which hold that the defense need not put on a defense. I don't have to put my defendant, my client, on the witness stand. I don't have to produce one witness. As a matter of fact, I am entitled to elicit my defense and elicit information leading to the defense of my client through a cross examination alone.

THE COURT: Mr. Silets, is that the basis of your motion? Is that your motion?

MR. SILETS: I now move, your Honor, that the Court enter an order declaring a mistrial.

THE COURT: All right. I believe that motion should be overruled.

MR. BRANSTETTER: It would be for all defendants?

THE COURT: Yes, it may be for all defendants and overruled as to all defendants.

MR. SILETS: Your Honor, in light of that then I ask the Court to enter an order striking the entire testimony of the Witness Partin because this, if nothing else--

THE COURT: (Interposing) Mr. Silets, that is a

matter that we can take up in the order the Court has suggested.

MR. SILETS: No, your Honor, this must be considered now. I want to make my record, your Honor, you pointed out to me yesterday--

THE COURT: (Interposing) Make your motion, sir, but we will not hear argument upon that. The Court has indicated what it thought was the appropriate and proper time to hear argument on any such motion.

MR. SILETS: I now want to make a motion to strike the entire testimony of the Witness Partin on the grounds that this matter constitutes a substantially verbatim transcript the same as any affidavit given by a witness to the government, which was in the possession of the government and this was turned over to the Court.

THE COURT: All right, allow that motion to be overruled.

MR. BERKE: If your Honor please, we want to be heard on that item.

THE COURT: Mr. Berke, the Court will hear you on the matter. But the Court will not interrupt the trial. I have indicated all the way through on this matter that I will give you at the conclusion of all the proof and before the case is submitted to the jury the opportunity to make any motions you wish.

MR. BERKE: If your Honor please, we don't want to waive any right. This is the first opportunity and we want to be heard. We want to be heard on behalf of Mr. Hoffa. We don't want to be cut off without arguing our motions.

THE COURT: You can make your motion, sir, but we are not going to interrupt the trial at this time to hear long argument on such motions.

MR. SILETS: Your Honor, I don't want to prolong my argument.

THE COURT: Just make your motion.

MR. SILETS: My motion is to strike the entire testimony of the Witness Partin on the grounds that the government knowing full well that they had in their possession a statement which fit within the purview of the statute failed to turn that over to the defense even though it was material and relevant to the witness' testimony and I further suggest that this matter was within the knowledge of the Court and the Court didn't turn it over to us. And on that second basis I move that his testimony be stricken.

THE COURT: All right.

MR. SCHIFFER: Your Honor, on behalf of--

MR. BRANSTETTER: (Interposing) Defendant Campbell joins in this motion.

THE COURT: I will allow all defendants to join in the motion.

MR. SCHIFFER: If your Honor please, on behalf of the Defendant Parks, I want to state what Mr. Parks' position is here.

THE COURT: Well, if you have a motion, make it.

MR. SCHIFFER: I have two motions I want to make it, but I want this record, your Honor, to reflect once and finally that this is going to be the last time this is going to be permitted to occur by this Court as to what the prosecution has been doing.

I want the record to reflect unequivocally, your Honor, what Mr. Parks' position is and what his counsel is and certainly how many other counsel here for defense feel offended.

And I want to make these motions.

THE COURT: All right, state your motion.

MR. SCHIFFER: Your Honor, Page 3530 of this record in this case I stated to the Court, your Honor, if the Court please, insofar as the Defendant Parks is concerned we will waive on behalf of Mr. Parks and the Court can introduce and permit to be introduced all this evidence about the threats which Mr. Neal has spoken about which he is fearful that may come from the lips of the witness, this witness, insofar as the Defendant Parks is concerned--

THE COURT: (Interposing) Mr. Schiffer, state your motions, sir.

MR. SCHIFFER: This is my motion.

THE COURT: What is your motion?

MR. SCHIFFER: I expect your Honor to grant my motion.

THE COURT: All right, just state your motion first.

MR. SCHIFFER: I want to state my motion, your Honor, I am moving for a mistrial and I want to state the grounds and I expect your Honor is going to grant my motion now. I want to advance the reasons for it.

THE COURT: All right. Proceed.

MR. SCHIFFER: Now, then, and I continue, insofar as the Defendant Parks is concerned we feel we are in a position to waive and we do so waive with no prejudice to Mr. Parks.

End Tk 6
Tk 7 fls.

Now, then what has happened in this case due to the government, and I shouldn't really say government, I should say the prosecutors in this case and those who assisted them from Washington, when Mr. Partin was on the stand, Your Honor, the government had in its possession and knew what it had given to Your Honor as a sealed exhibit the October 8th and the October 18th statements.

They permitted Mr. Partin then to commit perjury. Now we see the extra proof. If Your Honor will remember within the last ten days with reference to that kind of testimony I stated to Your Honor, it's in the record and I think it's rather replete with reference that the government knew when Partin testified to material issues in this case they knew he was perjuring himself at that time, Your Honor, at least up to that point we had not been shown these transcripts which Your Honor now has turned over to us and we say it's turned over too late.

Parks has been deprived, number one, of the proper and adequate cross examination of the witness against him in accordance with his constitutional rights for cross examination because had we known what was in the October 8th and 18th transcripts, Your Honor, the entire cross examination so far as Parks is concerned, would have been in a different pursuit because then, knowing what was in the sealed envelope, we could have cross examined him and shown that it

is quite evident now that his testimony was suborned, that he was testifying perjuriously to material issues and the prosecution knew it at the moment he testified.

What recourse is there to this except to say to the Court, as I said the last time in the United States against Berger case, I have spoken of it twice, which states what the rules of this kind of a game are, that we are not playing a game, we are in a court of justice, that when the prosecution does these things the Court is not supposed to commend them. This is a foreign kind of a thing they have introduced here. This is a Russian conception of justice, the Nazis. We have penned with our young blood every foreign war to preserve here what these men of the prosecution table here desecrate--

THE COURT: All right.

MR. SCHIFFER: Now, I say--

THE COURT: (Interposing) Mr. Schiffer.

MR. SCHIFFER: I say as part of my motion I expect Your Honor to grant my motion, very peculiarly I take that position, I say we are that correct.

THE COURT: Mr. Schiffer, surely this court is not without some authority to proceed with the trial of this case.

MR. SCHIFFER: Your Honor--

THE COURT: (Interposing) Now, if you wish to argue the case we will argue the case, and, as I indicated

7-3M

yesterday, I will stay here this afternoon after the recess, I mean after the normal time for adjournment, to hear you argue as long as you wish to.

MR. SCHIFFER: Except this one--

THE COURT: (Interposing) But we are not going to interrupt the trial of this to go on with these arguments at this time.

MR. SCHIFFER: May--

THE COURT: (Interposing) This is not an argument that cannot be made at some other time. This argument can be made at any time and at--

MR. SCHIFFER: (Interposing) May I respectfully--

THE COURT: (Interposing) No, sir, just state your motion, sir, and--

MR. SCHIFFER: (Interposing) My motion is this, Your Honor, I say that this court cannot countenance what the prosecution has done and we have no trial here, Your Honor. Your Honor says well, you don't want to interrupt the trial. I agree with Your Honor, I want to do everything Your Honor wants to do except I want a fair trial for Mr. Parks.

Now, if the price--

THE COURT: (Interposing) Mr.Schiffer--

MR. SCHIFFER: (Interposing) In defending my position--

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THE COURT: (Interposing) Mr. Schiffer, the Court does not wish to hear further argument on this motion. I will hear any motion which you have here but we will reserve argument.

MR. SCHIFFER: May I state it for the record?

THE COURT: State your motion.

MR. SCHIFFER: I move for a mistrial, first on the ground that the Defendant Parks has been deprived of proper cross examination of Partin and the other witnesses for the prosecution due to the perjury of Partin with the consent and the help of the prosecutors. That is point one.

Point two, in support of the motion that Partin having been permitted by this court at the insistence of the government to himself judge the relevancy of any evidence he would give to that extent was permitted by the Court, inadvertently at least, to commit perjury with the assistance of the prosecution.

Thirdly in support of the motion, that because of the government's false representations to the defendants and their counsel and to this court have deprived Mr. Parks of every vestige of constitutional rights he has to a fair trial.

Fourthly, with reference then it becomes necessary to state that we don't know when the Court, for the first time, read these transcripts, that as of the time the Court

did read the transcripts there was an obligation on the Court then at least to call everyone into chambers and disclose that Mr. Partin was inconsistent in his testimony and this court would save the right of a defendant to a fair trial, that when the Court saw perjury it did have an obligation then to advise the defense counsel of precisely the points in which such perjury had been committed on the part of the government by the witness.

Fifthly, when Partin testified falsely and the government knew it and Your Honor now has irrefutable evidence before Your Honor, now that you have seen these transcripts with us, that they have violated the precepts of the United States against Berger. Now, there's no question about that, no one can argue contrary any more, and since the prosecution evidently now, since we are realists and we do not live in a vacuum, that when Partin testified the way he did and was permitted to qualify every answer, Your Honor, with the permission of the Court and at the insistence of the government, that that at the minimum entitles Mr. Parks to a complete vitiation of what at times here has been referred to as a trial.

Your Honor will remember I called it, and I call it again for this purpose, that the government insisted on a drumhead court martial. That is what we have now, right up to this point, and now that they are exposed they want

Your Honor now to convert this further and feloniously, they now ask Your Honor to make it a star chamber proceeding and that is why I ask for the mistrial at this time.

THE COURT: All right. Allow that motion to be overruled.

MR. SCHIFFER: Now, then I have a second motion, Your Honor.

THE COURT: State your motion and, Mr. Schiffer, the Court will not hear argument upon this motion at this time. Just state the motion.

MR. SCHIFFER: Yes, sir. I was not arguing with Your Honor. I was stating grounds on the other motion.

THE COURT: Do you understand my instructions?

MR. SCHIFFER: Those were the grounds of it.

THE COURT: Do you understand my instructions?

MR. SCHIFFER: Yes, sir.

THE COURT: All right.

MR. SCHIFFER: I say, Your Honor, whatever I put in the record up to this point was in support of my motion for a mistrial and I think the record now is clear.

I also move Your Honor to strike all of Partin's testimony for this reason, a legal reason, that when this court, the United States Court, becomes apprised during the course of a criminal trial, moreso than any civil case but in a criminal case where people's liberties are at stake,

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that the Court has a constitutional obligation to a defendant, and in this case Mr. Parks, to stop the proceeding at that point.

THE COURT: All right, sir.

MR. SCHIFFER: Where perjury is provable at that point. I say we have reached it, Your Honor, now it's provable in the record and I ask Your Honor then to strike all of the testimony of Mr. Partin and having stricken the testimony of Mr. Partin I will then make a further motion as it relates to the entire indictment of this case upon Your Honor's ruling and in certain conformity with the laws as we know it in the United States, not Russia.

End 7

7 A fol.

THE COURT: All right. Allow the motions made on behalf of all defendants.

MR. HAGGERTY: May it please the Court.

THE COURT: Just a moment, Mr. Haggerty. Let the Court rule upon motions as they are made, sir.

MR. HAGGERTY: I beg your pardon, your Honor.

THE COURT: Allow the motions made by Mr. Silets and Mr. Schiffer to strike all of the testimony of Mr. Partin to be overruled and if the other defendants desire to join in that motion allow them to join in it and overruled as to all defendants.

MR. SCHIFFER: We respectfully except to that particular ruling, your Honor.

THE COURT: All right.

MR. BRANSTETTER: I join in Mr. Silets' motion, may it please the Court.

THE COURT: Beg your pardon?

MR. BRANSTETTER: I join in Mr. Silets' motion earlier on behalf of Defendant Campbell.

THE COURT: Yes. Allow that motion to be overruled.

MR. SILETS: Your Honor, I want the record to also show that I, in turn, joined in Mr. Schiffer's motion.

THE COURT: Very well.

MR. BERKE: That's for all defendants.

THE COURT: Allow each to join in each motion and allow it to be overruled as to each defendant.

Yes, Mr. Haggerty.

MR. HAGGERTY: May it please the Court, your Honor has permitted, after long urging, the release that has the effect on the defense and should have on this trial of the release of a hydrogen bomb. We have--

THE COURT: (Interposing) Mr. Haggerty, do you have a motion, sir?

MR. HAGGERTY: I have a motion but I think I am entitled to be heard on this and I don't think time is as important as the rights of the defendant.

THE COURT: Now, Mr. Haggerty, the Court has indicated that it would give the defendants any time that they desired to argue these motions but that the appropriate time to take these motions up in the opinion of the Court was at the conclusion of the testimony.

If you will make your motion now, then reserve your argument, I will hear you at whatever length you wish to argue at that time but it is not appropriate that we should interrupt this trial for these prolonged arguments at this time and the Court has indicated that heretofore and I don't think that it is proper that you should attempt to avoid or to circumvent the clear instructions of the Court in that respect.

If you will state your motion I will hear your motion and we will reserve argument until an appropriate time.

MR. HAGGERTY: I say to your Honor that this is the appropriate time and I speak only of the Defendant Hoffa, who shortly is to take the stand in his own defense and I think that this matter should be clarified before he takes the stand. There is no other time, it is now or never. Hearing arguments after he has testified is futile and totally unnecessary. It would be of no value to the Court nor to the Defendant Hoffa.

Therefore, I ask your Honor's indulgence to make a brief argument. I am not known for long harangues.

THE COURT: Make your motion then and you will be allowed five minutes to make your argument.

MR. HAGGERTY: I say to your Honor that what is disclosed in the transcription of these records of 8th and the 18th, the conclusive proof that in the first one that Partin did not come to inform the government of any illegal activities on the part of Hoffa, on the contrary, he was asked to do so--nor was he asked to do so by Hoffa but Partin came to learn information about the Nashville case and seek legally to justify his presence in Nashville.

End Tk 7A
Tk 8 fls.

It shows that he came to Nashville and not that he was invited to come, which has been the tenor of Partin's testimony throughout.

I say to your Honor that under this disclosure that is revealed in these tapes or on these tapes I now ask the Court and I so move that the information that was disclosed at the secret session conducted by your Honor that that testimony and those arguments be presented in the presence of the jury in the hearing of all within the court.

I say that the government knew and must have known that Mr. Partin lied, I say that Partin knew he lied, and I say further and I dislike very much to say this, that the Court by his actions and conduct of deferring this matter in this disclosure until this time deprived the defendants of a basic constitutional right of cross examination by limitation and restriction and, therefore, the Court aided and abetted knowingly or unknowingly this fraud that was perpetrated by the government.

I say to your Honor at this time we move the Court for a mistrial. How can there be a fair trial in accordance with our system of jurisprudence at this time?

Second, I move to strike the entire testimony of the Witness Partin. I say to do other than that would not be in the tradition of American justice and of American law but rather that is borrowed from foreign countries who so recently

8-2 V

displayed to the world and still display unfairness, injustice and inhumanity.

THE COURT: All right. Allow those motions to be overruled. All right, gentlemen, are we ready to proceed? If so, call your next witness. Have the jury return.

MR. SILETS: Your Honor, I don't believe the Court has ruled on Exhibit No. 213.

THE COURT: Exhibit No. 213?

MR. SILETS: The certified exhibit.

THE COURT: No, sir, I have not, Mr. Silets, I have just had so awfully much to read last night that I didn't get an opportunity to study that exhibit.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and thereupon, the following proceedings were had, to-wit:)

MR. BERKE: If your Honor please, the exhibit we talked about yesterday, the notes, that Mrs. Partin signed --

THE COURT: (Interposing) Yes, that was for identification only, to be admitted for identification purposes only.

MR. BERKE: If your Honor please, we would like then if that exhibit which Mr. Cash introduced, the signature of Mrs. Partin, if that, we would like for it to be received in evidence, because we, in the record I remember distinctly --

(Thereupon, the witness, Sargent Pitcher, was

placed on the witness stand.)

THE COURT: Well, Mr. Berke, the Court has ruled upon the matter. You moved on yesterday. You moved on it again today. The Court ruled on it at least twice.

MR. BERKE: Did the Court examine the record?

THE COURT: The Court examined the record in that respect and it was admitted for identification only and is now admitted for identification and not for any other purposes.

THE WITNESS: I have been sworn.

THE CLERK: Have you been sworn?

THE WITNESS: Yes, sir.

SARGENT PITCHER,

a witness called at the instance of the Defendant James R. Hoffa, having previously been duly sworn and having previously testified, returned to the witness stand and was examined further and testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Mr. Pitcher, have you any recordings pertaining to Mr. Partin other than the one that you delivered to the Court yesterday evening?

A Do I have them now?

Q Yes, sir.

A No, sir.

Q Did you have others?

A I had -- I heard, I should say, Mr. Haggerty, one magnetic belt, IBM recording, that purported to be a telephone conversation between Mr. Partin and Mr. Hoffa.

Q Was it one conversation or two conversations?

A I only heard one, Mr. Haggerty. I had nothing to do with the making of it and I only heard it one time, I believe, some months ago.

Q Did Mr. Daniels, your associate, I think, what is his official position?

A He is my executive assistant.

Q Executive assistant, did he ever bring to you any records that he had made with the conversation with Mr. Partin?

A Just the one I told you about.

Q That is the one on the telephone conversation?

A I believe it was of October 8, Mr. Haggerty.

Q Now, who was it originally told you that Mr. Partin wanted to talk to you in the month of September or October of the year 1962?

A Mr. Daniels.

Q Following Mr. Daniels telling you that, did you have a talk with Mr. Partin and Mr. Daniels in your office?

A I did.

Q Just the three of you?

A I believe that's right, yes, sir.

Q Now, whereupon, did you notify any agents of the

government after this conversation that you personally had with Mr. Partin?

A Yes, sir.

Q Who did you notify?

A Mr. Haggerty, I believe this is quite some time ago. I believe I called the FBI office in Baton Rouge. And by them I was referred to Mr. Peter Duffy in New Orleans in the U. S. Attorney's office.

Q Did you accordingly call Mr. Duffy?

A I did, sir.

Q And following your call to Mr. Duffy was a meeting arranged?

A There was.

Q And where was the meeting arranged for?

A In my office.

Q And was the meeting held?

A It was.

Q Who was present?

A Mr. Duffy. Mr. Grimsley. Mr. Daniels. Mr. Partin and myself. And let me answer a little further, I was only there a part of the time of this meeting. This meeting was held rather early in the morning.

Q What time did it start in the morning?

A I will say three o'clock to the best of my recollection.

Q What time did it end?

A I have no way of knowing of my own knowledge. I understand that the meeting continued until about six.

Q Was a recording made of that meeting?

A Yes, sir, there was.

Q And on or about what date was that meeting?

A It was either the early morning of October 2nd or October 3rd, Mr. Haggerty, 1962.

Q Now, was that the recording that was made on that date that you gave to the judge last night?

A Yes, sir.

Q Were copies made of that recording?

A No, sir. No, sir.

Q That is the only recording?

A That is it.

Q Subject to this early October 1st or 2nd, did you have a second meeting with Mr. Partin?

A No, sir, I did not.

Q Did you have any meetings after the meeting where the recording was taken where Mr. Partin was present?

A I don't believe so, Mr. Haggerty.

Q And then your testimony is that you just had the one meeting with Mr. Partin from about three o'clock in the morning thereafter?

A Yes, sir, if you want to call it a formal meeting.

I have known Mr. Partin for quite some time and I probably have talked to him since that time, but nothing about Mr. Hoffa or anything like that. About other matters in Baton Rouge.

Q Now, as a matter of fact, Mr. Partin, at the time you talked to him, was confined to the Baton Rouge jail, isn't that right?

A That is true.

Q And he was there on a charge of kidnapping, was he not?

A Yes, sir.

MR. HOOKER: We object to that.

MR. HAGGERTY: I say it is perfectly competent to show the circumstances surrounding that.

THE COURT: Allow you to proceed.

BY MR. HAGGERTY:

Q And after this conversation on October 2nd shortly thereafter, Mr. Partin was released on bond, was he not?

A That's correct.

Q Now, as a matter of fact, Mr. Partin had attempted to get out on bond on the 29th of September, had he not?

A I believe that's correct, Mr. Haggerty.

Q And you opposed it, did you not, in the court?

MR. HOOKER: We object to that.

MR. HAGGERTY: I think I am entitled to show the

circumstances in this case, your Honor.

THE COURT: Proceed.

BY MR. HAGGERTY:

Q Didn't you oppose it?

A Yes, sir. May I explain my answer, Judge?

THE COURT: Yes, sir.

BY MR. HAGGERTY:

Q Explain your answer.

A I'm going to, Mr. Haggerty. On September 29 Mr. Partin was under a charge of aggravated kidnapping. Aggravated kidnapping under the law of Louisiana carries the death penalty. The death penalty crime in the State of Louisiana is unbondable. The law further provides that if the persons kidnapped are returned unharmed, that then the person is eligible for bond. On September 29th, those children had not been returned. When I moved for bond, they had been returned, yes, sir.

Q Now, as a matter of fact, did you ask or request Mr. Partin or inform him to return the children and that he could be bonded?

A I think that I told Mr. Partin in effect this, Mr. Haggerty, that I knew that he knew where the children were. That I was holding him personally responsible for their safety. That all I was interested in, sir, was to get those children back and if they were returned I would not oppose

bond and I would recommend a reasonable bond. That is what I told him.

end 8
ba fls

Q Did you recommend a reasonable bond?

A If you think $5,000.00 is reasonable, yes, sir.

Q Well, we'll leave that to the jury. Now, what date was Mr. Partin released?

A To the best of my recollection it was either October 5 or October 6, 1962.

End 8A

Tk 9 fol.

Q Now, he was released from state custody then?

A Yes, sir.

Q And at the time this conference was held on October the 2nd where the recording was made Mr. Partin was still incarcerated in jail?

A Yes, sir.

Q Did Mr. Partin say that he had some special information at that conference, the one that you attended concerning Mr. Hoffa, did he say he had some special information? I am not asking you what it is.

A My answer is yes.

Q And did he further say or did you suggest that the information he had might be valuable to the United States Government?

A In my opinion it dealt with national security that was too rich for my blood, Mr. Haggerty, I had to pass it on.

MR. SCHIFFER: Well, your Honor, with reference to that answer I move for a mistrial. The answer made by this witness now becomes so prejudicial, he knew he was going to make that answer. He speaks of national security. He puts an imputation in this case which certainly doesn't exist. He knows it would be false, this very witness, so I say to your Honor I move for a mistrial, withdrawal of a juror and let's end this farce now.

THE COURT: Overruled.

MR. SILETS: Joined in by all defendants.

THE COURT: All right. Allow it to be joined in by all defendants, overruled as to all defendants. The area of which you asked the question is in the opinion of the Court that it is immaterial.

BY MR. HAGGERTY:

Q Mr. Pitcher, is there information on the tape that you gave to the Court that in your opinion affects national security?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

MR. HOOKER: If your Honor please, they are just trying to get something in.

MR. HAGGERTY: I state to your Honor as far as we are concerned we are perfectly willing, I am speaking for the Defendant Hoffa, we are perfectly agreeable that the record that your Honor surveyed last night be played to the jury.

MR. HOOKER: We object to it, we think it would be error.

THE COURT: Ladies and gentlemen, it is the responsibility of the Court to keep this trial upon the issues that are here for trial and the Court is doing its very best to do just that.

Your request in that respect was improper, Mr. Haggerty. That matter is not material, not relevant. The Court has so ruled and has instructed you to that effect and it was improper for you to make that remark.

The jury will disregard that remark. Proceed.

MR. SILETS: Your Honor, may I except to the Court's admonition of Mr. Haggerty?

THE COURT: Yes.

BY MR. HAGGERTY:

Q Now, Mr. Pitcher, did you ever travel to New Orleans and have a conference with Mr. Lacour?

A No, sir.

MR. HOOKER: Object to that.

BY MR. HAGGERTY:

Q How--

THE COURT: (Interposing) He has answered.

A No, sir, I did not.

Q Did you have a talk as the top prosecuting official of the Nineteenth Judicial District of the State of Louisiana with Mr. Grimsley?

A Yes, sir.

Q You knew in what capacity Mr. Grimsley was there, did you not?

A I knew that on October the 2nd.

Q You knew what capacity Mr. Peter Duffy was in,

is his name Peter?

A Yes, I think that is it, Mr. Duffy, of the U. S. Attorney's Office in New Orleans.

Q Were you ever asked by Mr. Grimsley or Mr. Duffy to recommend a low bond for Mr. Partin so that he might be released?

A No, sir.

Q Was there ever any agreement between you and Mr. Grimsley and Mr. Duffy that the government wanted him, Partin, for its own purpose, that the bond should be lowered in that case?

A No, sir.

End Tk 9
Tk 9A fls.

Q Was there ever any discussion that the government was going to accept personal sureties for the release of Mr. Partin on bond in the indictment, federal indictment in New Orleans?

A I know nothing about that, Mr. Haggerty.

Q Did you ever have any discussion of that nature whatever with Mr. Grimsley or Mr. Duffy or Mr. Lacour?

A No, sir. Could I say this, Mr. Haggerty, I think I might clear something up for you, sir, I know you don't believe this but --

THE COURT: (Interposing) Well.

Q How do you know I don't believe it?

A I mean I understand from your question --

THE COURT: (Interposing) Refrain from any voluntary statements.

A I apologize. Just what I am trying to say is my only dealings with Partin in October, at least September and October, were to effect the return of these children, that was my sole purpose in talking to Mr. Partin. After he had this conference with Mr. Grimsley and Mr. Duffy in my office, I had nothing to do with him any further as far as that is concerned, sir.

Q As a matter of fact, the kidnapping case against Mr. or against Partin was eventually dismissed, was it not?

A It was dismissed as to all parties involved at

the request of the mother who had the children back and who wouldn't testify against her husband, who was one of the people indicted.

Q It required your permission, however, did it not?

A Yes, sir, it sure did.

Q And you gave your permission, did you not?

A Well, Mr. Haggerty, I don't like to lose cases. Yes, sir, I gave, I not only gave my permission, I ordered it nolle prossed.

Q You ordered it?

A Yes, sir.

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q Now, I believe you stated that after this meeting of October 2nd or the 3rd that you didn't have anything further to do with Mr. Grimsley, Mr. Duffy, or other federal officials?

A I didn't say I had nothing to do with them, sir. I said I had no further part in this case.

Q Now, you stated on November 12th, November 12th, 1962, that the kidnapping case against E. G. Partin was being indefinitely postponed because Mr. Partin was engaged in giving testimony in another jurisdiction, November 12th?

A I don't recall making that statement, sir. I don't recall making it. I won't deny that I made it.

Q Let me see if it will refresh your recollection. I will hand you here -- that statement right here at this point -- and ask you to read this from the --

A (Interposing) I see that that is what the paper quoted me as saying, sir, I suppose I did.

Q Now, when you made this statement, what other jurisdiction was Partin engaged in giving testimony?

A Frankly I don't know, sir.

Q Do you know why you made this statement?

A I had to give some reason for not trying the case, I suppose it was assigned for trial that day.

Q And the reason you gave that he was engaged in giving testimony in some other jurisdiction?

A That's what the paper said.

Q At that time did you know where Partin was?

A No, sir, I did not.

Q Now, the bond that he was then under and when the case was continued indefinitely by you was he authorized to leave the jurisdiction of the State of Louisiana?

A I can't answer that, sir, I don't know, I had not authorized him.

Q The nature and type of bond that was then in effect, did it or did it not permit a person then on bond to travel beyond the jurisdiction of the bounds of your state?

MR. HOOKER: If your Honor please, we are taking

a lot of time with what we regard as completely immaterial matters, irrelevant to this inquiry, we object to this.

THE COURT: Well, sustain the objection to the last question.

BY MR. BRANSTETTER:

Q You did, November 12th, 1962, move in the district court that the kidnapping case be postponed indefinitely?

A You are showing me something in the newspaper, sir, that I am not certain about. I may have done it, I may have sent an assistant to do it, I don't know, I really can't answer you accurately as to how it was done. If the paper says I did, I did it.

Q I say that rather facetiously, I don't know whether I would ever make that admission or not.

A You are telling me I made the statement, sir, I am not denying it, I don't know whether I did or not.

Q All right. Do you recall then from this statement whether or not you knew where Partin was or what jurisdiction he was then in?

A I can tell you very frankly that I didn't know where Partin was.

Q Had you had any discussions with Duffy, Grimsley, or other officials with reference to his whereabouts at that time?

A No, sir, I did not, I certainly did not.

Q As to the statement contained in the paper that you may or may not have made that he was in another jurisdiction and the case would have to be continued indefinitely, you are not sure whether that was the real reason for the indefinite continuance of the case?

A I would say that that is a correct statement.

Q Oh, could I ask one other question, please?

Now, on November 8th, 1963, may I refresh your recollection also, let me ask you first if you need refreshing on November 8th, 1963, did you personally move or did you send an assistant to move that the perjury count against E. G. Partin be dismissed?

MR. HOOKER: We except to that, object to it on the ground that it's immaterial, if your Honor please, unrelated entirely to this case.

THE COURT: Well, I don't see any relevancy. I will allow him to answer.

A I can answer the question, yes, sir. I don't know the date, but I would like to say Mr. Partin was indicted by the grand jury of the parish of East Baton Rouge, I can't give you the exact date but I will give you what happened. He was indicted for the crime of simple battery on an employee of the Louisiana Creamery.

He testified before the grand jury and arising from his testimony a perjury indictment was returned against

him at the same time. When we tried the case --

Q (Interposing) Could I ask you, did you present that matter to the grand jury yourself?

A Yes, sir, I did.

Q Or one of your assistants?

A Yes, sir, I did. And when I tried the case on the simple battery indictment, which was the foundation for the perjury indictment, the Court found him not guilty. I assumed that that was a judicial declaration that he had told the truth.

Q You assumed?

MR. NEAL: We insist he answer.

THE COURT: Allow him to answer.

MR. NEAL: You assumed, you assumed what?

THE WITNESS: I assumed --

MR. BRANSTETTER: (Interposing) I object to him assuming. Let him state what occurred.

A I tell you what the law is in Louisiana, sir.

Q All right.

A When they found him not guilty.

MR. NEAL: Had you finished? Will you let him finish?

MR. BRANSTETTER: Sure, I will let him finish, Mr. Neal.

A When they found him not guilty of committing the

E[illegible] 9a
10 fls

battery he certainly couldn't be tried for lying about having committed it. Do I make myself clear?

Q This was growing out of the same case?

A Yes, sir, it is.

Q And he was indicted for perjury and the perjury indictment was dismissed by you?

A Yes, after he was found not guilty by the court on simple battery.

MR. BRANSTETTER: That is all.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Pitcher, isn't it true that you have known Mr. Partin for some time?

A Yes, sir.

Q As a matter of fact you have known him through his representation and through his activities in your county or your parish?

A That's correct.

MR. HOOKER: We object to it as leading, if Your Honor please.

THE COURT: Sustained.

MR. SILETS: Your Honor, this is cross examination.

MR. NEAL: It is not cross examination.

THE COURT: Proceed. Sustain the objection.

BY MR. SILETS:

Q As a matter of fact, Mr. Pitcher, on June 27, 1962 Mr. Partin was indicted in the federal court, federal indictment

for 26 counts arising out a joint investigation between the government and your office, isn't that right?

A That's right.

MR. HOOKER: We object to that.

THE COURT: Sustained.

MR. SILETS: Now, Your Honor, I would like to know the basis for this. This is extremely pertinent and material.

THE COURT: Proceed. Proceed.

BY MR. SILETS:

Q As a matter of fact, that indictment was suppressed?

MR. HOOKER: We object to that.

THE COURT: Well, I don't know what the question is.

MR. SILETS: The question is that the 26 count indictment which arose out of a joint investigation by Mr. Pitcher and the United States Government was a suppressed indictment. Isn't that right, Mr. Pitcher?

THE WITNESS: I can't answer that question. I don't work for the federal government.

BY MR. SILETS:

Q All right, now, on the 28th of June, Mr. Partin surrendered on that indictment, didn't he?

A I don't know about that.

Q But you do know that on the 8th of September your office had through your Grand Jury, your local Grand Jury,

indicted Mr. Partin on the kidnapping charge?

A Well, he was indicted for kidnapping. I don't know the date.

Q Well, the record shows it to be the 8th of September.

A That is the date.

Q Then it wasn't until the 25th of September that Mr. Partin surrendered himself on the kidnapping charge?

MR. NEAL: Your Honor, how long can this go on?

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, I would like to be heard on this. I would like to state why this is pertinent and relevant.

THE COURT: Proceed.

MR. SILETS: Your Honor, is Your Honor cutting me off from this line of inquiry?

THE COURT: Proceed. Proceed in whatever you think should be the next question.

BY MR. SILETS:

Q In fact, he surrendered himself on the 25th of September on the kidnapping charge.

MR. NEAL: Your Honor, apparently there is no reason to, no use, of objecting. He just goes right on. He has no right to cross examine this man in the first place. Number two, he is going into completely irrelevant and collateral matters as Your Honor well knows.

THE COURT: Well, I think it would save time just to proceed.

BY MR. SILETS:

Q Is that true, sir?

A What is the question, Mr. Silets?

Q Did he not surrender himself on your kidnapping charge, that is of your Grand Jury, on September 25th?

A He turned himself in sometime after the indictment, yes, sir, after the--

Q (Interposing) And according to your testimony he stayed in jail because it was a non-bondable offense?

A That's correct.

Q As a matter of fact, on the following day, isn't it true that the indictment was returned in Alabama against him for manslaughter?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Well, now, let me ask you this, sir, of your own knowledge, isn't it true that the sheriff's office in Livingston County, Alabama, filed a detainer with your office?

MR. HOOKER: We object to it.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Well, on the 27th of September, sir, isn't it true

Mr. Partin was arraigned on the kidnapping charge?

MR. HOOKER: We object to that.

THE COURT: Well--

MR. HOOKER: (Interposing) That is immaterial when he was arraigned, Your Honor.

MR. SILETS: It is not immaterial, Your Honor, I think I'm entitled to establish the sequence of these events.

THE COURT: Allow him to answer.

THE WITNESS: I think the record, the minute entry of that day would be the best evidence, Mr. Silets. I don't recall. He was arraigned, yes, sir.

BY MR. SILETS:

Q And then it was the following day that Judge LeBlanc refused the bond, isn't that correct?

A I opposed it.

Q Now, that was about September 28th. Now, Mr. Daniels has testified in that time Partin came to him or mentioned to him that he had some information about Hoffa that he wanted to talk about, now, following that isn't that when Daniels came to you and mentioned what Partin was going to--, what kind of information Partin had?

MR. HOOKER: We object to that as leading.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, you have ruled that this is improper time and again. Why does Your Honor permit this

to go on?

THE COURT: Just proceed, gentlemen.

BY MR. SILETS:

Q Now, it was after Mr. Partin was incarcerated and had spoken to Mr. Daniels that Mr. Daniels came to you to tell you that Partin had advised him that he had information on Hoffa?

MR. HOOKER: We object to that.

MR. REDDY: We object to that.

THE COURT: Sustain the objection.

MR. REDDY: You have sustained it twice.

THE COURT: Proceed.

MR. SILETS: I would like to know the basis of the objection why was sustained. Is it the form of the question?

THE COURT: Both because it is immaterial and irrelevant and because it is leading.

MR. SILETS: All right, Your Honor, I would now like to establish why it is material and why it is relevant.

THE COURT: Proceed, sir.

MR. SILETS: Your Honor, with all due deference to the Court, I feel the Court is restricting my cross examination in what I feel is a material and relevant area and if the Court please I would like to be heard to explain my objection on it.

THE COURT: Well, proceed, sir.

BY MR. SILETS:

Q Now, Mr. Pitcher, it was only after these events that you contacted Mr. Duffy. Is that right?

A All I can say is, sir, that it was sometime between the 29th of September and the 2nd of October, 1962 that I contacted Mr. Duffy.

Q All right, and during that time Mr. Partin was still incarcerated?

A Yes, sir.

Q Now, you said that first you called the FBI, which office of the FBI did you call?

A I say I think that is what I did, Mr. Silets. And if I did I called the Baton Rouge, Louisiana office.

Q Who did you speak to?

A I could have spoken to any one of three or four people.

MR. HOOKER: We object to that. It is immaterial.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Will you relate the conversation?

MR. SILETS: We object to that.

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, again I would like to state for the record that the Court is restricting my cross examination.

THE COURT: All right. Proceed.

MR. SILETS: I would like to be heard to explain the relevance of this.

THE COURT: Proceed, sir.

End 10

Tk 10A fol

BY MR. SILETS:

Q Now, following your conversations with Mr. Duffy, did you speak to Mr. Partin about the kidnapping charge?

A Yes, sir.

Q And didn't you tell him that in order for him to go ahead with the Federal Government it would be necessary for him to return the children?

A No, sir.

MR. HOOKER: We object to that.

THE COURT: Well, he answered, I believe.

THE WITNESS: My answer is no.

BY MR. SILETS:

Q What did you say to him at that time after you spoke to Mr. Duffy?

A I didn't talk to Mr. Partin again until Mr. Duffy and Mr. Grimsley and Mr. Daniels were present on October 2nd, I believe it was.

Q All right. Did anyone under your supervision or in your office, to your knowledge, speak to him after you had spoken to Mr. Duffy? Speak to Partin, that is?

A I couldn't answer that; not under my direction, sir.

Q Isn't it true that Mr. Daniels spoke to Mr. Partin?

A I would imagine that he did, yes, sir.

BY MR. SILETS:

Q Now, following your conversations with Mr. Duffy, did you speak to Mr. Partin about the kidnapping charge?

A Yes, sir.

Q And didn't you tell him that in order for him to go ahead with the Federal Government it would be necessary for him to return the children?

A No, sir.

MR. HOOKER: We object to that.

THE COURT: Well, he answered, I believe.

THE WITNESS: My answer is no.

BY MR. SILETS:

Q What did you say to him at that time after you spoke to Mr. Duffy?

A I didn't talk to Mr. Partin again until Mr. Duffy and Mr. Grimsley and Mr. Daniels were present on October 2nd, I believe it was.

Q All right. Did anyone under your supervision or in your office, to your knowledge, speak to him after you had spoken to Mr. Duffy? Speak to Partin, that is?

A I couldn't answer that; not under my direction, sir.

Q Isn't it true that Mr. Daniels spoke to Mr. Partin?

A I would imagine that he did, yes, sir.

Q And that was following Mr. Daniels' conversation with you, is that right?

A This was in a very short span of time, Mr. Silets. I don't know the answer to that.

Q Things were happening rather quickly?

A I would say yes.

Q Now, the fact is that the two children were returned to the Sheriff's Office at two o'clock in the morning on October 4, 1962? Basically, isn't that true?

A I don't remember the date, but I remember the hour because I was there.

Q Now, was that by pre-arrangement?

A The first information I had, Mr. Silets, is when the Sheriff's Office called me and said that the children will be here in 30 minutes. I went--I dressed and went to the courthouse and they were brought in, I say around two o'clock in the morning, yes, sir.

Q Do you know how they happened to come to the Sheriff's Office?

A I certainly--

MR. HOOKER: (Interposing) We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Do you know whether you had advised Mr. O. C. Brown, Mr. Partin's lawyer, that you were going to speak to

him?

A I don't remember that.

Q You spoke to him outside of the presence of his lawyer, didn't you?

A I would say yes.

Q And at a time when he was being held on a charge in your Parish?

MR. HOOKER: We object to that.

THE WITNESS: Let me answer that, Mr. Hooker.

THE COURT: Sustain the objection.

MR. HOOKER: Withdraw the objection.

THE WITNESS: At his request, yes, sir.

BY MR. SILETS:

Q Whose request?

A Mr. Partin's request.

Q Did you advise Mr. Brown what you were up to?

A I don't think I told Mr. Brown anything, Mr. Silets.

Q Who did you tell what you were up to?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Now, when these children, mysteriously arrived at two o'clock in the morning at the basement of the Sheriff's Office, then you were able to get a bond for Mr. Partin,

isn't that right?

A Yes, sir.

Q And wasn't that part of the entire overall understanding that he was to be released on bond?

A My understanding with Mr. Partin was that I would recommend a reasonable bond if, as, and when the children were returned unharmed. That is it, yes, sir.

Q And isn't that true that it also arose out of the conversations with Mr. Duffy and Mr. Grimsley?

A Absolutely not.

MR. HOFFA: That is all.

BY MR. SILETS:

Q Do you know anything about the revocation of the bond on the federal indictment?

A No, sir.

MR. SCHIFFER: I have a few questions, your Honor. Just wonder if it is time for recess.

THE COURT: No, sir. We just got started about 20 minutes ago. Let's proceed.

MR. SCHIFFER: I tried to help you, Mr. Witness.

End Tk 10A
Tk 11 fls

BY MR. SCHIFFER:

Q You have related, Mr. Pitcher, that you knew Partin for some time, for some years?

A Yes, sir.

Q Have you known him socially?

A I wouldn't say so.

Q As a matter of fact, you knew him as a law enforcement officer on your part and him as a criminal, is that right?

A I knew him as a labor leader.

MR. HOOKER: We object.

Q I didn't ask you that question. You answer my question now.

A I did not know him as a criminal, sir.

Q You did not know him as a criminal. Had you investigated him before the time of this 2 o'clock in the morning meeting with him at your office?

A Yes, I knew him as a criminal sometime after--, you asked me, Mr. Schiffer, if I knew him as a criminal when I first knew him, I did not know him--

Q (Interposing) I didn't say when you first knew him. I said prior to the time when you did know him but prior to the date of the meeting at two o'clock in the morning.

A If you will specify--

Q (Interposing) Why don't you let me finish a question?

A Yes, sir.

Q All this time that you knew him prior to the two o'clock in the morning meeting, during that period of time up to that meeting you knew him to be a criminal, did you not?

MR. HOOKER: We object to that, if Your Honor please.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q As a matter of fact, you knew that he had been accused and had admitted committing rape in Mississippi, did you not?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, there is nothing like this in evidence and I think the jury should be instructed and Mr. Schiffer should be admonished.

THE COURT: Yes.

MR. SCHIFFER: I will refer back to the record.

THE COURT: All right, sir. Disregard--, just refrain in any further comments--, disregard that statement, ladies and gentlemen, disregard the statement of counsel entirely.

BY MR. SCHIFFER:

Q Are you referring to a memorandum, Mr. Witness?

A I am referring to a memorandum, sir, that--

Q (Interposing) When did you make that memorandum?

A When somebody from your force sent to the parish of East Baton Rouge to pick up the indictments against Mr. Partin.

Q Well, did I ask you anything about that written memorandum?

A You asked me what I was looking at, Mr. Schiffer, and I told you.

Q I didn't ask you, I asked you--, did I ask you to look at the memorandum?

A No, sir, you didn't.

Q I asked you to testify then from your memory.

A Ask the question and I will answer it.

Q That's what I intend to do but you interrupted me by pulling a paper out of your pocket.

MR. HOOKER: We object to that.

THE COURT: Proceed. Proceed.

BY MR. SCHIFFER:

Q Now, then without looking at any memorandum and not referring to it, I am asking you from your own memory did you know at any time prior to the two o'clock in the morning meeting at your office with Mr. Partin that you testified to

that he was a criminal?

A Let's say I knew he was charged.

Q Well, now, how long have you been a prosecutor?

A I have been practicing law about 22 years.

Q I didn't ask you that question, did I?

A I have been a prosecutor for three.

Q Three years?

A I was assistant district attorney four before that, seven years in the district attorney's office.

Q So for a period of 11 years you have been a prosecutor, is that correct?

A Seven, Mr. Schiffer.

Q Seven altogether?

A Four and three.

Q Four and three, seven years. And that goes back beyond, backwards beyond the time you had this first meeting with Partin at two o'clock in the morning.

A My service as assistant district attorney goes back before the time I knew Ed Partin.

Q And when was the first introduction you had with Ed Partin as a prosecutor?

A I would say during the creamery difficulties.

Q Give us a time, will you?

A I can't, Mr. Schiffer. You don't want me to look at any notes, I don't remember.

Q I want you to--, I am asking you from your memory.
A I can't.
Q You are an expert witness, are you not?
A I can't tell.
Q You are an expert witness, are you not?
A It depends on the point.
Q Well, you are a prosecutor, are you not?
A I am.
Q You know everybody you have prosecuted, don't you?
A Yes, sir.
Q You do. All right, let me draw your mind back now to Mr. Partin. When is the first time you met him as a prosecutor?
A I can't answer that question.
Q You mean you have no recollection?
A I don't remember.
Q Would your records indicate?
A Yes, sir. They would.
Q You didn't bring those records with you, did you?
A You didn't ask for those.
Q I never asked you for those?

MR. NEAL: May it please the Court, we submit this is all immaterial.

THE COURT: Sustain the objection.

MR. SCHIFFER: It's all material, Your Honor. The

Court--, may I--

THE COURT: (Interposing) The Court has ruled on these matters. The Court has ruled on these matters.

MR. SCHIFFER: I am going to return to this case, it's the case of Kerscio--

THE COURT: (Interposing) Proceed, Mr. Schiffer.

MR. SCHIFFER: I want to proceed, Your Honor, but I don't have to have my cross examination curtailed.

THE COURT: I have read State against Kerscio and I direct you to proceed to something material.

MR. SCHIFFER: May I also refer to Wigmore on Evidence on this very point, Your Honor?

THE COURT: Proceed.

BY MR. SCHIFFER:

Q Now, then as a prosecutor there did come a time then before that two o'clock in the morning meeting when you met Partin?

A Yes, sir.

Q And you said it was so?

A That's correct.

Q Do you know whether or not there came a time when Mr. Partin got a recommendation from the state attorney general of Louisiana with reference to a presidential pardon?

A I have--

MR. HOOKER: (Interposing) We object to that as

immaterial, if Your Honor please.

THE COURT: Allow him to answer it.

A I haven't but I will, sir, I don't know what the attorney general did, I have never been in the attorney general's office.

Q Now, in effect with reference to all Mr. Partin's involvements with the law in the state level in your parish you gave him immunity, did you not?

A No, sir, I did not.

Q From prosecution?

A I did not.

Q You did not. Oh, let me ask you something, Mr. Witness, in the period of 1962, the latter part of 1962, weren't you and your office under investigation by the federal government for protecting the gamblers, the racketeers in the Baton Rouge parish?

MR. HOOKER: We object to that.

THE COURT: Sustained.

MR. SCHIFFER: Your Honor, in view of the prior answer of this witness--

THE COURT: (Interposing) Now, Mr. Schiffer--

MR. HOOKER: (Interposing) We withdraw the objection.

THE COURT: We are trying this lawsuit and the Court is going to keep the lawsuit, as best it can, upon the

issues of this lawsuit and I have sustained the objection.

MR. SCHIFFER: Your Honor, I believe the Court has severely curtailed Parks' right by refusing to permit us to cross examine this witness and I state again on the basis of the cases cited to Your Honor--

THE COURT: (Interposing) All right.

MR. SCHIFFER: And with great particularity the fact that this witness has said he did, his office officially worked with the office of the federal government in this case, that we have a right to bring out, in accordance with the Kerscio doctrine, exactly what the motives were of this witness.

If we are not permitted to try to bring that out, we say our rights of cross examination have been severely curtailed and I move for a mistrial.

THE COURT: Overrule that motion. Anything further for the defense? Any cross examination for the government?

BY MR. HOOKER:

Q Mr. Pitcher, you were asked about making some statement to the newspaper that Mr. Partin was away testifying in some other jurisdiction. At the time you made that statement, if you did make it, was that your information?

A To the best of my recollection, Mr. Hooker, yes, sir.

Er[illegible]
Th[illegible]A fol.

Q Now, about this kidnapping case that you were asked so many questions about, was that a domestic affair between the husband and wife?

MR. SILETS: Objection, your Honor, a grand jury returned an indictment, it's not a domestic affair when the grand jury returns an indictment. Mr. Hooker knows that it's an improper question.

THE COURT: Overrule the objection.

A Yes, it was a charge made by the wife against her husband.

Q Against her husband and against Partin?

A That is correct.

Q And you investigated it thoroughly?

A Yes, sir.

Q The children were returned?

A They were.

Q The husband and wife go back together?

A They have.

Q Live happily ever after?

MR. SCHIFFER: Objected to.

A I wouldn't know about that.

MR. SCHIFFER: This is highly improper.

THE COURT: Sustain the objection.

MR. SCHIFFER: How would this witness know and how does the examiner here know?

MR. HOOKER: Well, I want to show how absurd it is.

MR. SCHIFFER: It's absurd that he brought an indictment and a criminal indictment and now the government takes the position, "Oh, it's nothing at all to be indicted"?

THE COURT: Sustain the objection to the last question.

BY MR. HOOKER:

Q Well, in any event, after you fully investigated and the children were brought back --

MR. SCHIFFER: (Interposing) Objected to, your Honor. We have been curtailed in our questioning here, the fact that there was an indictment, whatever happened after that, if this man did not carry out his responsibilities, let not Mr. Hooker make an excuse for him. The fact that Mr. Partin was never tried for the crime, despite what this witness has to say, there was the indictment there, it was quashed and this is the witness who did it in subversion against the face of the law and a kidnapping of children.

What are we trying to justify in this action right here, your Honor? That it's legal now to kidnap children?

BY MR. HOOKER:

Q Did you see the husband and wife together?

A Yes, sir.

MR. SCHIFFER: Objected to, your Honor. This is in derogation of an indictment against the star witness for the prosecution.

MR. BERKE: He says we can't go into these collateral matters, if your Honor please, now he has gone into it himself, I think it's a two-edged sword.

THE COURT: Well, sustain the objection.

BY MR. HOOKER:

Q Well, in any event, the case as far as Mr. Partin is concerned --

MR. BROWN: (Interposing) Your Honor just sustained the objection to him going any further. Mr. Hooker just persists going right on.

MR. HOOKER: No, sir. I'm going to ask him if the case against Mr. Partin in connection with the kidnapping was completely dismissed.

THE WITNESS: It was.

MR. BERKE: We admit that he did that.

THE WITNESS: Now, Judge, I'd like to make my explanation. I have been accused by Mr. Schiffer --

MR. SCHIFFER: (Interposing) Let's not have any more explanation there, just like Mr. Partin was permitted to testify.

THE WITNESS: May I --

THE COURT: (Interposing) Sir, we are trying to

try this lawsuit here and --

THE WITNESS: (Interposing) Well, if I may, Judge, I --

MR. BERKE: (Interposing) Just a moment.

MR. HOOKER: That's all the questions of the government.

THE COURT: All right. If there is nothing further, this witness may be excused.

THE WITNESS: May I be finally excused, Judge?

THE COURT: I understand he is excused, yes, sir.

THE WITNESS: Thank you, sir.

(Witness excused.)

THE COURT: Call your next witness.

MR. BERKE: May I approach the bench, if your Honor please?

THE COURT: Yes, sir.

(Thereupon, Mr. Berke conferred with the Court outside of the hearing of the reporter.)

THE COURT: Well, let's take a 10-minute recess then at this time.

(Thereupon, at 10:45 o'clock, a.m., a recess was had.)

End 11a
12 fls

(After recess the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

THE COURT: Call your next witness.

MR. BERKE: If your Honor please, I would like to call to the stand the defendant, James R. Hoffa.

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat, sir.

JAMES R. HOFFA,

one of the defendants, called as a witness in his own behalf, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BERKE:

Q Would you please state your name?

A James R. Hoffa.

Q What is your age, Mr. Hoffa?

A Fifty-one years old.

Q And what is your address?

A 16154 Robson (spelling) R-o-b-s-o-n, Detroit, Michigan.

Q Mr. Hoffa, will you briefly state your background

in connection with your growing up and getting into the position that you are in now, sir?

A I was born in Brazil, Indiana, February 14, 1913. My father died at an early age. My mother moved us into another small town and at about the age of eight or nine I moved to Detroit, Michigan, with my mother, two sisters and a brother. Went to school until I was seven years old. My mother worked in a factory. When I left school at the seventh grade I went to work in a department store as a stock boy. Stayed there a very short time. Went to work in a warehouse. Worked in the warehouse for the Kroger Grocery and Baking Company.

Organized that concern in an independent union. Moved that into a federal union of the AFL. And moved from there into the Teamsters Union. And I've been an organizer or officer since that time, the year 1932 or 1933, up to the present date, sir. Officer of a local union, Joint Council, State Conference, Area Conference, Vice President, Trustee. Now General President of the International Union.

Q Mr. Hoffa, when did you become president of the International Union, sir?

A In 1937. Took office in 1938.

Q What are your duties in the position you hold now, Mr. Hoffa?

A As the General President of the International

Union, I have administrative duties of carrying out the Constitution of the International Union, aiding in organizing and formulating organizing campaigns and processing the necessary trials and procedures that come before me as the General President and seeing that the International Union prospers and progresses economically in behalf of our members so that we will be able to be classified as the largest and the best union in the world.

Q Mr. Hoffa, do you hold any position as trustee on any pension fund plan covering the members of the Teamsters Union?

A Yes, sir. I am a trustee on the Central States, Southeast, Southwest Pension Plan. Headquarters in Chicago.

Q Mr. Hoffa, who controls the pension plan?

A There is a committee of employers and unions equal on the side, eight of each.

Q Mr. Hoffa, you say equal on the side, when you say eight employers--

A (Interposing) Eight employers and eight union people.

Q That means eight from the management side and eight from the other?

A Eight employers and eight representatives with the understanding that each quarterly meeting we rotate the chairmanship between the trustees by motion seconded and

a vote of the employers having one 90-day period, and the union having the following 90-day period, and vice versa.

Q In the event of a dispute and there is a tie between the employers and employees on this pension fund, do you have any way to settle that dispute?

A A federal judge in Chicago.

Q Sir?

A A federal judge in Chicago is our umpire.

Q Do you know who that federal judge is, sir?

A Judge Igou. May I say that this pension fund that we have which has been publicized considerably by the part of this trial here is one of the largest pension funds in the country, assets in about $300 million, where we have pension, retirement plan for our members at age 57 with 20 years of service at $200 a month.

We have also in conjunction with that pension plan that a second trust instrument which is a health and welfare plan which has been mentioned here. A health-welfare fund contributed solely by the employer that provides life insurance, hospitalization, out of work benefits for the members and their entire family and no cost to our members.

Q Mr. Hoffa, do you have any control other than being one of the 16 in respect to this pension fund?

A No, sir. I am one of 16 on the pension fund and one of four, I believe, on the health and welfare fund.

Q Mr. Hoffa, how are local officers of local unions elected?

A Constitutional requirement for local union officers is that you must be a member two years of the local that you are running for office. You must have been a paid-up member for a period of two years. And you must comply with the federal law of the Landrum-Griffin Law in regards to character and background to be eligible to run for office.

Q Now, Mr. Partin, I believe, is an officer in his local union?

A Secretary-treasurer of Local Union No. 5 of Baton Rouge, Louisiana.

Q Under what conditions would you as president of the International have authority to remove a member or an officer of the local union?

A The Constitution provides, Article 19, Trials and Procedures, I have no authority to remove an officer unless it is shown that he is incompetent. That he is dishonestly administering the local union in regards to finances or contractual relationships and I only have a right of review from the local union executive board once charges are properly filed to the Joint Council and from the Joint Council to the International Union. When it comes to the International Union, we establish a panel. That panel in return goes out and makes a complete and thorough investigation and

reports back to the General Executive Board each 90 days and we have our sessions, and we then make a decision by a majority vote of the 13 vice presidents, secretary-treasurer, and general president.

End Tk 12
Tk 12A fls.

Q Mr. Hoffa, would an indictment for a felony or conviction for a felony under your constitution give you any authority to remove any officer at a local union?

A The Landrum-Griffin law passed in the year 1959, in September, sets out the qualifications for individuals who belong to the labor unions to be eligible to run for the office constituted in their bylaws and the International constitution. If he is eligible in requirements of the 2-year period, both the membership and good standing and he is eligible under the Landrum-Griffin law I would have no authority to preclude anybody from running for office.

End 12a
13 fls

The only way I could remove him would be, as I stated before, valid administrative or proper charges channeling from Article 19 up through the local council, International union.

Q In hearing charges, Mr. Hoffa, do you personally hear these charges or do you have various panels to hear the charges?

A I have a panel in the geographical area that the charges are being held in, in some instances having a vice president as the chairman of the panel or an attorney by the name of Fred Tobin from our Washington office act as chairman and secretary of the panel.

Q As president of the International union, do you have duties with respect to negotiating labor contracts?

A Yes, sir. I negotiate labor contracts when they are either area-wide, company-wide, or where they run into difficult problems and prior to a strike being called of any membership of over 5,000 members I reserve the right by constitutional authority to intervene, attempt to settle the dispute by entering the negotiations and endeavoring to avoid a work stoppage.

Q Thus with --

MR. HOOKER: (Interposing) Pardon me a moment, Mr. Berke. I don't see how this line of questioning in any stretch of the imagination is material to this inquiry about

how labor disputes are handled, charges are handled, all of the details of these matters. I don't want to interfere with the defendant being able to make a full statement about the issues involved in this case, but we object to this, it's immaterial.

THE COURT: Allow him to proceed.

MR. BERKE: All right.

BY MR. BERKE:

Q Among the many of your duties is one of your main duties the negotiation of labor contracts, Mr. Hoffa?

A One of my primary responsibilities is to enter into negotiations on the contracts I just explained.

Q And how long have you been doing the negotiating of labor contracts with management?

A Approximately 34 years, sir.

Q And what was the history of that from the time you started up until the present time?

A I negotiated a contract with the local union that I am president of, Local Union 299 in Detroit, Local Union 674 which I came to originally in the Teamsters Union, wage scales and conditions that ranged from 30 to 40 cents an hour for the classifications that today range from 3 to 3.50 an hour, where they had no fringe benefits they now get health and welfare pensions and vacations and holidays.

MR. HOOKER: We object to that.

THE COURT: Yes, it doesn't seem this is material. Proceed to another matter.

MR. BERKE: All right.

BY MR. BERKE:

Q How many members were in the Teamsters Union in the 30's?

A I believe around 300,000.

Q And how many members are currently in the Teamsters Union?

A An average of about 1,500,000 with a peak of 1,700,000.

Q By comparison in size, how does your union compare with other unions?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. BERKE:

Q Do you have many duties in connection with your large union?

A Yes, sir, I have many responsibilities that are necessarily bondable under the Landrum-Griffin law, such as chairmanship of the various committees and particularly the chairmanship of the Central States Conference and the responsibility of various committees for large concerns and an organizational standpoint.

Q Is your union the largest in the United States,

Mr. Hoffa?

nd 13
13a fls

A Yes, sir, largest in the world.

MR. HOOKER: We object to that.

BY MR. BERKE:

Q Where do you maintain your offices, Mr. Hoffa?

A Main and principal office is at Detroit, Michigan. The administrative and general office is Washington, D. C., and we have sub-offices where we have regional directors, Dallas, Texas, San Francisco, and Washington, D. C., for the Eastern Conference and St. Louis for the Central.

Q Where do you maintain your home, Mr. Hoffa?

A Detroit, Michigan, is my voting residence, I have an apartment in Washington and stay there when I am on the administrative business in the Washington office, however, I travel extensively throughout the United States, Canada and Puerto Rico.

Q I believe you stated that your main offices, if I am correct on that, of the International Union is in Washington, D. C.

A That is the administrative office. The main and principal office is Detroit, Michigan, sir.

Q Do you have offices other than that in Detroit and Washington?

A Yes, we have offices, as I stated, in the various cities where our directors are at. When I visit those towns I use the director's office for administrative operations at that time in that given area.

MR. HOOKER: In the interest of time, if Your Honor please, we submit that all of this is immaterial.

THE COURT: Let's move along.

BY MR. BERKE:

Q Mr. Hoffa, state whether or not you have an extensive telephone switchboard operation in Washington.

A We receive roughly 35,000 calls per month with a dual switchboard in the operation of the International Union with approximately, I believe, about 300 extensions and private phones.

Q Do you have a credit card that you use, sir?

A I have three credit cards, sir, telephone credit cards.

Q And do you use your credit cards in accordance with whose business you happen to be performing?

A That is correct, sir.

Q Approximately how many employees do you have in your Washington office?

A 302.

Q Now, Mr. Hoffa, did you have a trial in Nashville that commenced October 22nd, 1962?

A Yes, sir, I did.

Q Do you recall, sir, when you first arrived in Nashville for this trial?

A October 21st at 10:45, roughly, at the airport on

a Sunday.

Q Do you recall how you arrived in Nashville?

A Yes, sir. I left on a Delta Airlines from Detroit, Michigan, around 7-something in the morning, changed planes in Cincinnati, took American Airlines out of Cincinnati and arrived roughly at 10-something, I think 10:45, in Nashville, Tennessee.

MR. BERKE: Mr. Marshal.

BY MR. BERKE:

Q Since there was some question as to how you arrived, sir, I will ask you to look at this exhibit and see if you can identify that exhibit.

MR. HOOKER: No question being made about it, if Your Honor please.

A This is a Book Travel Bureau who apparently made the arrangements from Detroit to Nashville, Tennessee, and it is outlined on the coupon of the airplane or the airplane ticket is outlined Delta, American into Nashville, Tennessee.

Q Did you have a stopover at Cincinnati there?

A Yes, sir, I did change planes, I think it was somewhere around 8-something.

Q All right, sir. Will you file this as an exhibit for identification and in evidence, Your Honor.

MR. DALE: 218, Your Honor.

MR. BERKE: Do you want to see it?

MR. HOOKER: No, sir, no question about it.

(The airplane coupon and travel bureau receipt referred to above were marked Def. Hoffa Ex. No. 218 for identification & recd. in evidence.)

BY MR. BERKE:

Q Mr. Hoffa, state whether or not prior to your arrival in Nashville if headquarters for the operation of the International Union's business was set up in the Andrew Jackson Hotel.

A Yes, sir, I instructed Attorney Bufalino to go into Nashville, Tennessee, to set up a temporary office with the understanding that my secretary that appeared on this stand, Gayle Wesmey and Larry Steinberg, who appeared here, proceed also to Nashville and continue setting up the necessary requirable offices to administer the affairs that I could not handle by either telephone or by administrative assistants throughout the United States at the Nashville office.

Q When you arrived in Nashville, did anyone come with you, sir?

A Yes, sir, Gayle--, Larry Steinberg and we met Gayle Wesmey at the airport, picked up Steinberg in Cincinnati and we both came on the same American flight to Nashville.

Q Did you then come on to the Andrew Jackson Hotel?

A Picked up at the airport by Ewing King, as demonstrated by the picture that the jury witnessed here

recently in the trial, and in a Thunderbird, by the way, and went down to the Andrew Jackson Hotel, yes.

Q Mr. Hoffa, do you know Mr. Allen Dorfman?

A Yes, sir, very well.

Q Will you please state what acquaintance and business relationship you have had with Mr. Dorfman?

A I have had a personal relationship with Allen Dorfman's father for a long period of time. I have known Allen since he was a young fellow and I knew when he was in college and he came out of college, went in the service, renewed my acquaintance when he came back out and sometime shortly thereafter we entered into a relationship on a business basis of the Central Conference or Central States Welfare--, Health and Welfare plan--, with Allen Dorfman's concern, at that time through a Dr. Leo Perlman of the Union Casualty Company in New York City.

Q In connection with your acquaintance with Mr. Allen Dorfman, state whether or not you engaged in numerous telephone conversations with he and his company about business matters?

A Constantly.

Q Could you give the jury some idea of approximately how many calls you make to each other?

A In the period between September, the last week of September and the last week of December I had roughly 42 credit

card calls, plus many other phone calls that were channeled through the switchboard, either to his Whitehall number in Chicago or the WI number in Dearfield, Illinois, which is his home.

Q Mr. Hoffa, for many months prior to October or November or December, 1962, and for many months subsequent thereto, did you have telephone conversations with Mr. Hoffa (Dorfman) long distance?

A Yes, with Mr. Dorfman I had constant communications over a long period of time, probably particularly the last eight years.

End 13A

14 Foll.

Q The business that Mr. Dorfman secured from the Teamsters Union was that on a bid basis?

A Mr. Dorfman contrary to the evidence from the stand did not receive the business from the Central State, Southeast, Southwest Health and Welfare Fund. A Dr. Leo Perlman, Union Casualty Company, was the individual who received the insurance and Allen became the broker for Dr. Leo Perlman's concern operating out of Chicago administering the claims and administrative end of the health and welfare fund for that particular company.

Even as of this day, we do no business directly with Allen Dorfman's office. Our business is conducted with the main and principal insurance company that issues the insurance policy and Allen Dorfman becomes the agent for the insurance company and the agency pays Dorfman, not the fund.

Q Mr. Hoffa, do you alone have control as to who gets this business?

A Each year it is required we file a form with the federal government and likewise the concerns we do business with file the necessary forms, both state and federal government, to show the experience rating that had taken place for the previous year. It is necessary that we sit down 60 or 90 days prior to the end of that particular fiscal year to determine the experience rating and the necessary adjustment of premiums for the following year based upon the experience of

the previous year.

And when that is brought about, trustees meet at the regular assigned meeting. We have a full report for the entire year by accredited CPA's and we determine then from that report as to whether or not we will maintain the same insurance company or whether in fact we will submit it to other companies for bids based upon the projection of the proposed cost and the increases in benefits from the present concern we are doing business with.

Q All right, sir. Now, Mr. Hoffa, do you know the Defendant Thomas Ewing Parks?

A I met Thomas Ewing Parks after the indictment, sir.

Q Did you know Thomas Ewing Parks in October, November, December 1962?

A No, sir, I did not.

Q Had you ever met Thomas Ewing Parks?

A No, sir.

Q Had you ever heard of Thomas Ewing Parks?

A No, sir.

Q Did you know Larry Campbell?

A Yes, sir. For approximately 10 years prior to the October trial, because he is a business representative for the local union in Detroit that I am still president of, Local 299. I was responsible for Campbell going to work there.

Q All right, sir, do you know Ewing King?

A Yes, sir. I know Ewing King from conventions, from the Southern Conference meetings and for the last approximately 10 years and particularly I know him very well personally since he became president of Local 327 in the Nashville area for the last three years.

Q Do you know Nicholas J. Tweel?

A No, sir. I never met the gentleman until we were indicted and at this trial.

Q In October, November, December, had you ever heard of Nicholas Tweel?

A No, sir.

Q At the time you were preparing to come to Nashville for this trial, sir, did you call Allen Dorfman to secure any records that you needed for the Nashville trial?

A Yes, sir, I did. On Saturday the 20th, in the evening, I called Dorfman's home to see whether or not he could bring to the Nashville trial certain records of enterprises that I had been in business with Allen Dorfman on and several other people.

Q All right, did you instruct Mr. Dorfman as to when you would like to have those records brought to you?

A Rapidly as possible, sir.

Q When were these records actually turned over to you, Mr. Hoffa?

A To the best of my recollection it was on Monday

morning, having Dorfman get in there early on Sunday I believe they were turned over to counsel and we studied them some time in the afternoon of Monday.

Q When you arrived in Nashville that Sunday afternoon, were you expecting that those Dorfman records would be there at that time for your consideration?

A En route to Nashville, Tennessee, to make sure that the records would be there that Dorfman had been able to find the necessary records that we were concerned about, I called him from the Cincinnati airport, Erlanger County, to where the telephone call was placed. By credit card 783-0525-B-4-K-32, to his WI number in Deerfield, Illinois. And he assured me he would have those records in to Nashville.

They were in the process of checking the data and if necessary he would take a chartered flight in to get them straightened up.

Q Were those records in Nashville when you arrived on Sunday afternoon?

A No, sir.

Q Now, Mr. Hoffa, state whether or not the records that Mr. Dorfman brought were numerous and required a lot of studying?

A Mr. Dorfman brought records to Chicago or to Nashville from Chicago which I understand he had to collect out of several groupings because I believe a lawyer by the

name of Phil Goodman had some. He had some in his office. And as testified from this stand, he had, I believe, additional clerical help gather those records to come to Nashville. They were not in a voluminous type information. It was concise. Necessarily so, because of the accounting arrangement that had been handled in the business to where our attorneys could properly explain those transactions to the jury in Nashville concerning that particular incident.

Q Did the case which involved the enterprise of Commercial Carriers, Inc., involve a lot of accounting and figures and records, sir?

A A very technical case, many thousands of pieces of paper which the government hid some 368 pounds, they hid them until the last few days of the trial.

MR. HOOKER: We object to that.

THE COURT: All right.

THE WITNESS: Made it necessary that we have accountants and we constantly worked afternoons, evenings, late into the night until one and two o'clock, trying to put together the intricate financial relationship that was involved with this trial so we could properly present it intelligently to the jury to where they could understand that it was not a million-dollar operation as has been suggested.

MR. NEAL: Your Honor, may we move that the witness' statement about government hiding records be stricken?

THE WITNESS: The record speaks for itself in the Nashville trial.

MR. NEAL: The record doesn't speak for itself, your Honor. Judge Miller so found.

THE COURT: Let's proceed.

MR. NEAL: We move that that statement be stricken from the record.

BY MR. BERKE:

Q How was your time spent during the first few days of the trial when you did receive the records, Mr. Hoffa?

A Well, necessarily the records weren't involved in all of my discussions. Bufalino had taken down voluminous files. As a matter of fact, two large file cabinets that we took each day to court by truck. Some 2-file cabinet drawers to each one of the file cabinets full of records. And it was necessary that we chronologically put those in order that we could start at the beginning of the corporate structure up to the current date to be able to properly explain as I stated.

As I stated before in detail explained that operation. When we arrived in Nashville, and I checked into the hotel room, I immediately located the attorneys, brought them into my suite which has been on the diagram here, a large room. We sat down and platted out and planned how we were going to handle the necessary brief work to go in front of the Court prior to the selection of the jury as we did here.

And then we took those individual items and we refreshed our memory and went over them to determine that each one of us who were going to be involved in that case would be acquainted with every single document in those two file cabinets so that we would have no cross fire or cross question concerning the necessity and the timing of those documents to be presented in our trial in Nashville.

We did this in the afternoon of Sunday when I arrived there until the late evening. We went to dinner. We came back and worked far into the night.

The following morning when we arose, we again discussed it briefly with Bufalino. I did. Bufalino slept in the same suite I was in, the adjoining bedroom. And we went down to breakfast. Came back again from court where we had primarily talked about briefs on that Monday morning, not the jury.

And we again immediately went into sessions to try and work out again the details that had not been completed for the trial and this continued on for about three days.

The third day we had finally set up our office. It finally had our files placed in proper order and we were in a position then to intelligently present the evidence to the Court and try our case.

I had no appointments. I refused to accept phone

calls except extreme emergency phone calls. And worked constantly with my lawyers to get in line what I knew personally concerning the case far better than the lawyers. That would be necessary for the presentation.

Q Did you keep any appointments with any other persons other than your attorneys for the first three days, Mr. Hoffa?

A Yes, sir. Steinberg and my secretary necessarily had to meet and bring in correspondence that was urgent. Bring in certain phone calls that were urgent. Have them handled and I detailed the work back to them. They took care of it. What work was necessary from a legal angle I turned over to Bufalino. He dictated the necessary legal memorandums and the work was carried on then immediately and in conjunction with my attorneys,Mr. Haggerty, Mr. Kossman, Mr. Maher, Mr. Previant, and various other attorneys.

Q Mr. Hoffa, except for your attorneys and Mr. Steinberg and your secretary, did any other persons have any interviews with you or discussions with you during the first three days that you were in Nashville?

A I had no discussions other than the preparation of my case for the Sunday afternoon, Monday and Tuesday and then after court on Wednesday. I started to accepting necessary appointments that had piled up to take care of the administrative work of the International Union.

Q Mr. Hoffa, while you were in Nashville, for the 2-months period, state whether or not you in addition to the duties involved in your trial if you kept up and transacted your work for the International Union?

A Just as I do here. I have a procedure that I arrange to take care of the International business. Allocate the time immediately and return to the hotel. Work out the phone calls, the communications, sign the necessary documents that had to be filed with the appropriate state agencies. By deadline established by law. And then after that I immediately would sit down with my lawyers and work out the proceedings for the following day.

Sometimes go next door and get a rub, steam, to relax a little bit. By then the transcript would be back. I would insist that each lawyer take a copy of the transcript, go to his room, read it, mark it, then we would meet jointly and compare our markings and our notes to correlate the program for the following day of the previous testimony as we do in this trial to properly present our case.

It took anywhere--excuse me, took anywhere from 15 to 16 hours a day to carry on the constant campaign of the court and the necessary administrative work and meetings because I, likewise, carried on meetings of individuals throughout the South that had pressing problems in my suite in between the times that I met with my lawyers.

End Tk 14A

BY MR. BERKE:

Q Mr. Hoffa, did you in Nashville, and now also in Chattanooga, maintain an International Union headquarters?

A Yes, sir, three doors down there was--, two doors, Bufalino's door, the next door I believe was the legal typists, the necessary reproducing machinery, and I believe the following door down was Gayle Wesmey's office and across the hallway was Larry Steinberg's sleeping headquarters plus a combination office.

Q Did you import some of your help from the International Headquarters into Nashville and then Chattanooga in order to transact your business?

A Moreso in Chattanooga than in Nashville because I was able to get competent legal help in Nashville to carry out the necessary work of the attorneys in coordinating the lawsuit and I was able to minimize the amount of International work by having one of my other administrative assistants fly in twice a week and work out the detailed arrangements where it could be handled back in Washington or Detroit.

Q Mr. Hoffa, did you know Mr. Edward Partin?

A Yes, sir.

Q Can you tell us approximately when you first became acquainted with him?

A I would imagine sometime in the convention year of 1957, maybe prior to that in some state conventions, but

with very slight knowledge until the Esso campaign, I believe, in '59, in '59 when I went down to Baton Rouge to assist in the Esso program of organization I became better acquainted with the individual named and at the convention I became acquainted likewise with the Ed Partin and also in administrative work of his local union in conjunction with the International Union subject primarily to strikes and to appeals.

As far as our personal relationship was concerned I question whether or not prior to the Nashville trial I had saw Partin more than ten or twelve times in my life that I can recall.

Q Mr. Hoffa, you have already stated that Mr. Partin was secretary-treasurer of his local union. Does he hold any office whatever with the International Union?

A Neither the joint conference nor International Union, just the local union secretary as we have some five or six thousand other individuals holding the same positions.

Q Do you recall, Mr. Hoffa, with reference to the Nashville trial the circumstances or approximately when, if you recall, that Mr. Partin called you with reference to any appointment or meeting?

A I have checked my records sitting in this courtroom and listening to a lot of conversation and the best I can evidence, and I have the memoranda here, that sometime in the 18th but rather the 8th, even, on a call of October 8th that

apparently came to my office in Washington I discussed with Partin the fact that he had just been released from jail and then later on, I believe in the 18th when I was in Newark attempting to settle a dispute between employers and our local union there, I must have received another phone call in that Newark area and Partin invited himself to Nashville to take care of his personal problems that were most pressing at that time where he had some six indictments pending.

Q Mr. Hoffa, did you invite Ed Partin to come to Nashville for any benefit of yours whatever?

A No, sir.

Q Would you have needed Partin in the defense of your suit in Nashville?

A Ed Partin knew nothing of the details of my lawsuit in Nashville, Tennessee, and in my opinion came there to learn it from other people other than those that had business with Ed, the government.

Q All right. Following your discussion with Ed Partin, did you at some time during the progress of your trial get to see Ed Partin?

A Yes, sir.

Q Do you recall what that discussion was when he finally did get to see you?

A Yes, generally it was his trouble. I think it

was sometime in--, to the best of my recollection, sometime in the second week of the trial or the latter part of the first week, I am not sure, and he came there with the express purpose of trying to show why his local union should not be placed in trusteeship because we had so many complaints and so much problems with our local union in Baton Rouge over a long extended period back, particularly inthe years '61 and the early part of'62 that we were requested by our vice president, M. W. Miller, to place the local union in trusteeship for the benefit of the workers.

Generally I am opposed to trusteeships and I try to avoid them and I had been working with Partin trying to get him interested in straightening out that local union and paying attention to his business rather than running all over the country and he came there primarily to plead not to be placed in trusteeship and that he would straighten up and operate his union the way it should be operated. That is my recollection generally of our conversations.

I had no need for Partin to assist me whatsoever in any trial in Nashville because it was so technical that it took skilled lawyers and technicians to put together the evidence of that trial because it was dealing with figures and cost factors.

Q Mr. Hoffa, will you please tell us just what is a trusteeship? I know, I am sure that some of us here don't

understand the significance of placing a local union under trusteeship.

A Occasionally it becomes necessary, very rare, to where we have an administration of a local union of duly elected officers that go wrong. When they do we have a procedure in our International Constitution that permits the International Union, and also by law, to place a local union into trusteeship and assign a trustee.

That trustee then immediately removes all officers, has a right of appointment, re-appointment of local officers he believes should be there, and to fill the vacancies of the required seven-man executive board from the membership and try and adjust and administer the affairs of that local union until such time as it is ready for a new election and get the membership back into running their own affairs and their own business on a local union level basis with no trusteeship.

I think out of our some 800 subordinate bodies we have now roughly 20 trusteeships throughout the United States, Canada and Puerto Rico.

Q All right. Now, Mr. Hoffa, I believe you have already stated that your conversation with Mr. Partin was in the latter part of the first week of your trial or the early part of the second week of your trial.

A To the best of my recollection, yes, sir.

End 15
15A fol.

Q Do you have any way that you can fix that time any closer than that, sir?

A I wouldn't attempt to because I am not one who will sit here and tell you that I can remember what happened 30 days ago with any clarity unless I can refer to records or documents that we keep in the course of business to refresh my memory. I just would not try to do it.

Q Now, Mr. Hoffa, after you had this discussion with Mr. Partin, state whether or not you had numerous other conferences with other union officials all over the United States that came to Nashville to discuss problems with you?

A I had extensive meetings in Nashville with responsible heads of organizations to take care of their problems. Who they were, I could not even tell you at this moment, because I have a very concise habit of having to handle a very voluminous business. I handle it, make quick and rapid decisions, and when those decisions are made, I wipe it from my mind and go to the next problem I have running this large International union.

Q Now, Mr. Hoffa, in connection with your discussions with other officials of other unions, do you have any assistants from any of your head personnel there with you at the time you make these decisions to carry out your orders?

A You talking about Nashville?

Q Nashville, yes, sir.

A Larry Steinberg came in, was in there almost permanently, Joe Konnell came there from the Washington office Harold Givens came from Washington. N. W. Miller came in from Dallas, I believe there was a vice president from Chicago came in, one from Detroit, vice presidents of councils, joint councils in Ohio, Indiana, and various other areas I cannot recall, as I state, exactly who they were because their problems were taken care of either by calling the necessary parties and assigning it to a responsible head of one of our divisions with instructions as how to handle that problem or it was handled by myself personally on long-distance phone or a decision was made that did not necessitate the keeping of records for those decisions.

Q Mr. Hoffa, when you made decisions after interviewing responsible heads of local unions and other matters pertaining to union business, did you relay those orders to someone who in turn would carry out the orders for you, sir?

A We have 17 trade divisions, we have administrative heads of those trade divisions, and generally when the discussion that is necessary on the top level of the general president is finally reached in regards to a decision it is funneled back into the responsible head of that particular division and the division then instructs his personnel working under him as to how to handle that problem as from an administrative order from the top of the International union, namely

myself.

Q Mr. Hoffa, do you recall then how long it was after your first discussion with Mr. Ed Partin until he was granted leave to have a further discussion with you in your offices?

A I believe sometime around the end of the trial. He had persistently been wanting to meet and have a discussion of some length, which I could not do at the very pressing point of the trial, but as the thing generated into the evidence being presented and it kind of simmered down and leveled off, Bufalino and myself, who had been meeting with him, agreed to sit down one evening and give a full discussion as to what really was the problem and why he could not administer his local union.

End 15a
16 fls

We did that. And I can say that I have been in this International for some 34 years, I never heard such a story in all of my life.

I just couldn't envision what this man was talking about and I finally asked him whether or not he was physically ill or whether he should have some type of treatment because he was nervous, upset, almost incoherent. Talking about the 26 counts that he had ranging all the way from kidnapping to manslaughter.

And in addition to this he was very perturbed. Brought me a handbill of the accusations that he had gone to Cuba. Was in constant contact with Cuba in regard to shipping arms.

MR. HOOKER: We object to that, if your Honor please.

MR. BERKE: Just a minute, if your Honor please. He denied that, if your Honor please, and we have laid the foundation for that with this defendant. This defendant can't be cut off from stating what the conversation was when he says the conversation was something else. Now, we are entitled to do that.

THE COURT: Proceed.

BY MR. BERKE:

Q Go ahead, sir.

A Then I asked him right out, "Listen, Ed, I want

to ask you a question. Are you involved in smuggling arms into Cuba? Because if you are I am not only going to remove you from the local union, I am going to expel you."

And he attempted to try to explain it in a way with the most peculiar attitude of any man I ever saw as though it was just nothing.

I said to him then, "I want to tell you something, Ed, I am going to make an investigation of this as soon as I get all of my troubles out of the way and then when I know about your activities of talking to individuals who have been to my office who put out these handbills against you, we are going to take some action against you."

Well, in addition to that he wanted to talk to me about finances. Now, normally this International Union will finance local unions who are in difficult positions financially, but as I explored what he was doing with the money of his local union, I could see that it was being squandered by just loose trips, and I again told him, "Unless you sit down and run that local union the way it is supposed to be run and you clear up all these charges against you, I'll give you an opportunity without removing you because I have been indicted, I know what it is to be indicted, it doesn't always mean you are guilty. I will give you an opportunity to clear those charges up but I'm telling you, if you are convicted of any one of them I will remove you

from office and I will put that local in trusteeship for six months and then we will let the membership elect their own officers because you are destroying our local in Baton Rouge."

He pleaded for another chance. It blew up. He stormed out of the room, and that is the way we left it.

Q After he stormed out of the room, Mr. Hoffa, did you see him any more in Nashville after that?

A I don't recall seeing him other than maybe a glimpse in the Coffee Shop or a glimpse in the lobby. And I asked him, "What are you doing here?"

He said, "I want to convince you that I want to do what is right."

I said, "Ed, you've been talking to me for three years about what is right and I am tired of listening to you. Now, you straighten up as I told you in the meeting or go."

Q Mr. Hoffa, it has been testified here that at some time during your Nashville trial Mr. Partin sat on the outside of your room at a table there as a guard to your room. Can you enlighten us about that?

A Yes. We had some problems. We complained to Judge Miller that one evening, I should say, one morning, early in the morning, Steinberg woke up and we found somebody ransacking our legal office. Steinberg endeavored to catch him. He couldn't.

The following day we found another individual

on our floor and we were on an alcove where nobody was supposed to be there except our group, the elevator down, that we have in the Hotel Patten over here.

And it became necessary to protect our records and particularly to protect prople from coming around and listening to the door and on the pretext they were just walking up and down the hallway to overhear the conversations of our discussions with our lawyers and to view documents that were out in the open, that Partin did off and on when we had a lawyer meeting, when he was in town, sit there with a table just to see that nobody came near that door and listened to the conversations which were purely confidential conversations of planned strategy for our next day's appearance in court.

Now, I understand why he was there, it was to give information to the government.

End Tk 16
Tk 16A fls.

Q Mr. Hoffa, after you had had this turmoil with Mr. Partin when you, as we say, laid the law down to him, did he continue to make himself known there or seen around the International and did he continue to stay as a guard there out in the hotel or did he leave?

A No. We finally arranged to have Chuck O'Brien take over the policing of the hallways to make sure we were not molested as he does right here now. Except here we have three armed guards.

Now, the question involved is very simple, that I was in a struggle with the United States Government trying to prove my innocence as I am trying to prove it here, and I was principally and primarily engaged in that lawsuit constantly day and night with my attorneys.

I had numerous attorneys there as I have here, because my responsibility was such that I had no right to take that case lightly because it affected the lives of 1,700,000 families in this country if I should be convicted and not be able to administer the affairs of this union.

And so I cannot say that I watched every day for Partin. I only recall the fact that Partin used to come to my room occasionally and bring me a newspaper in the morning, "Good morning, how are you?" And he disappeared after that. Now I understand why.

Q Mr. Hoffa, did you ever see Nicholas Tweel in the

Andrew Jackson Hotel?

A No, sir.

Q Did you ever --

A (Interposing) I didn't know the man, excuse me, I didn't know the man. If he would have been standing right in the lobby and I came out of an elevator, I could not have identified him from one of a hundred people in the lobby.

Q Did you ever tell Ed Partin that Nicholas Tweel or Anthony Quinn, or whatever name he elected to give here, was in Nashville to help you out in this case?

A I certainly did not. I needed no help. I had competent legal counsel. I knew I was innocent and I knew that the documents would prove ultimately in that courtroom as to who was right and who was wrong in that trial.

Q Now, Mr. Hoffa, on the record, page 2962 of this record, Ed Partin was quoted to make the following statement. "I went up to Hoffa's room. I asked him did he know the fellow Anthony Quinn and he said no. I don't know him. I then described him to him. And told him that he was a friend of Allen Dorfman's. He said, oh, yes, he is here to help me."

Did you ever make any such statement to Ed Partin?

A I made no such statement and it is ridiculous on its face. If he didn't know the man and I didn't know the man, how would I say that I was going to have him help me?

It is ridiculous on its face.

Q All right, sir, Mr. Hoffa, on the record, page 3222, Mr. Ed Partin in one of his answers stated as follows.

"He," now I assume he is talking about you, "He told me he would like for me to stick around a day or two. That he might have one or two people he wanted me to call. He said they were going to get one juror or try to get to a few scattered jurors and take their chances."

Did you ever make any such statement like that to Ed Partin?

A I sit here and listened to the explanation, if that is what it was, from the witness stand, one of the most rambling discussions I ever heard in a courtroom, and I don't yet know what day that was supposed to have happened, what hour it was supposed to have happened, and I think it is very unfair that a defendant should have to defend himself on variations of dates without being specific and pinpointed as I have learned to be in courts.

I say I did not make the statement and I flatly deny it. And I would like to have somebody tell me when and what hour was it made because if you will recall I was principally in each and every day principally engaged with my lawyers. I can't understand all of these statements.

Q Well, Mr. Hoffa, regardless of what dates or what hour, if the witness couldn't fix it, did you make any such

statement to him at any time?

A No, sir, I did not.

Q Mr. Hoffa, on the record, page 3236, Ed Partin made the following answer to some question and he said as follows.

"He," and I assume he is referring to you, "He called me into his room and told me when I came back he may want me to pass something for him."

Did you make that statement?

A In the first place, that is a ridiculous statement to try to be tied to this case because I never made the statement and the way it is couched I don't even know what it means frankly.

Q Did you make any statement that you may want him to pass something?

A I stated I did not, sir.

Q Mr. Hoffa, on the record, page 3246, Ed Partin said as follows, and I quote:

"And he --"

MR. NEAL: (Interposing) Excuse me just a moment, your Honor, could Mr. Berke give the full reference there? I think he hit his rear pocket, is the statement. He said he wanted him to pass something.

THE COURT: Well, proceed.

MR. NEAL: Very well.

BY MR.BERKE:

Q And I have copied this from the transcript. If I am in error you can call my attention to it.

MR. NEAL: I will.

BY MR. BERKE:

Q From record Page 3246.

A I would like to say this, sir, that I don't think that you can call a conversation a slap on the hip pocket, so I don't think it's misquoted, what you read.

Q This thing I am speaking of does not have that statement in it, Mr. Hoffa.

A I listened to Mr. Neal.

Q Well, that is,--

A (Interposing) He's good at that.

THE COURT: All right, let's proceed.

BY MR. BERKE:

Q Now, on record Page 3246, Mr. Hoffa, Ed Partin is supposed to have said as follows, "And he," meaning you, "nodded his head to me and he told me that, 'the dirty bastards went in and told the Judge that his neighbor had offered him $10,000.00', he said, 'we are going to have to lay low for a few days.' "

Did you make any such statement to him?

A I never made any such statement to anybody but I would like to explain that situation. We were called into

Judge Miller's court and we were told in a confidential session what had transpired according to him and not to discuss it except among lawyers and clients.

We discussed that evening with our lawyers--, in the afternoon--, why anybody would have did what apparently, they apparently allegedly did because it didn't make any sense. The man wasn't even a juror.

I never made any such statement to Ed Partin and if he overheard a discussion with my lawyers and distorted it it's an absolute fabrication.

Q Mr. Hoffa, on record Page 3261 and continuing on, Mr. Partin was quoted to have made the following statement in the record, he said as follows, "He," referring to you--, no, strike that--, he said as follows, "He is a football player and Mr. Hoffa asked me if I knew--, did I know him and Phil King, that Phil King wouldn't matter so much because he understood he wasn't too well liked and he asked me would I get ahold of them for him."

Did you make any such statement to Ed Partin?

A Well, in the first place, I don't think I speak that way and, secondly, why anybody would get ahold of a football player for a trial is a mystery to me. I positively did not make the statement.

Q Did you know Bill Wade?

A I never heard of the gentleman.

Q Did you know Phil King?

A Never heard of the gentleman.

Q Now, Mr. Hoffa, are you even a football enthusiast?

A No, sir, I am involved in running a large organization and very rarely do I get a chance to view football. I have never been to a professional football game, ashamed as I am to say it.

Q Is football one of your hobbies, Mr. Hoffa?

A No, sir, only when my son was playing football did I take time out to go see a football game.

Q Mr. Hoffa, had you ever met Mr. Wade?

A I had not, I have not met him to this day.

Q Do you know Mr. Wade or Mr. Phil King?

A No, sir.

Q Mr. Hoffa, on record Page 3236, Mr. Ed Partin is quoted to have said, "He wanted to get him to come into town and circulate around, see if he knew anyone he could get to on the jury and to come into the courtroom and shake hands and mix up with the defendants."

A Well, first of all there wasn't any defendants, it was Hoffa only, and secondly, I never made any such statement at all to Ed Partin.

Q Were any of these defendants on trial in that

case?

A No, sir.

Q Were you the only defendant in that case?

A Yes, sir. He became confused with this case, I am afraid, with his story.

Q On record Page 3269, Mr. Hoffa, Ed Partin is quoted to have said as follows, "He told me he thought the banker witness had heard him that day on the stand and said he would pay fifteen or $20,000.00, whatever it cost to get to the jury."

Did you make any such statement?

A I made no such statements, as a matter of fact, the record will reflect there was no such testimony concerning what he is talking about there in Judge Miller's court, the court record will indicate it is a fabrication.

Q On record Page 3279, Mr. Partin is quoted to have said that you said as follows, "King keeps telling me that he can get the patrolman but he don't get to him. He keeps talking about it and fumbling around."

Did you make any such statement?

A I made no such statement and I don't talk that way.

Q Did you ever tell Ewing King to get to the policeman or the patrolman?

A No, sir, and Ewing King so testified on this very chair.

Q Now, Mr. Hoffa, on record Page 3283, at 3284 and 3285 Mr. Partin makes a long statement, I don't know whether you can understand it or not, but I will read it to you, I will let you listen to it and see if you made any such statement as this, "He told me at that time, I told him I thought the trial didn't look too good. Well, when he got talking to me he said, 'well, don't worry about it too much because I have got the colored male juror in my pocket. One of my business agents Campbell came into Nashville prior to the trial and took care of it.' "

"He told me that Campbell was kin to the juror and that he wouldn't take any money but he wouldn't go against his own people. He told me he was an old retired railroad worker. He fished all of the time. Sat and fished and didn't have a care in the world. Said didn't worry anyone. Said it looks like our best bet is a hung jury unless we can get to the foreman of the jury. 'If they have a hung jury it will be the same as acquittal because they will never try the case again."

Did you make that statement, Mr. Hoffa?

A I did not make the statement but let me say this in way of explanation, if you will turn to Page 540 of the transcript in the Nashville trial most of those words were stated there with the exception that I don't happen to be colored, not that there would be anything wrong with it,

everybody is born what they are born and, secondly, I don't know how anybody could talk about getting to a foreman of a jury because this jury don't have a foreman no more than that one until they retire back to the conference room, then they will select a foreman, so it's a rambling statement, it can't be attributed to me, I did not make it.

Q Mr. Hoffa, did you make any statement therein that in your trial this colored juror would not go against his own people?

A In the first place I never made such a statement, and, secondly, I don't understand the statement, if I may, because he talks about Campbell coming down here to a trial. Now, I would like to know with any common sense how did anybody know who was going to be a juror until the jury sat in the jury box?

End 17
k 18 fol.

Who would you come down to see? Stop everybody on the street and ask them are you going to be a juror?

Q Did you have any way of knowing that there would be a colored, male juror on the jury?

A No more than I knew who would be on this jury.

Q Did you ever tell him that Larry Campbell had gone to Nashville before the trial and took care of this colored male juror?

A I did no such thing and Larry Campbell testified here he had not been down to Nashville the year of 1962.

Q Mr. Hoffa, did you ever tell him that Larry Campbell was akin to whatever colored juror might happen to be on the jury?

A Well, the best answer to it is, he was not the kin. Listening to Carl Fields talk here. I certainly did not say it.

MR. BERKE: If your Honor please, would your Honor--it is twelve o'clock now?

THE COURT: All right. Very well, ladies and gentlemen, do not discuss the case or allow anyone to talk with you about it. Be back at 1:30. The jury may be excused at this time.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom for lunch and the following proceedings in their absence were had, to-wit:)

THE COURT: All right, Mr. Hoffa, you may be excused, sir.

THE WITNESS: Yes, sir.

(Witness temporarily excused.)

THE COURT: Let's adjourn court until 1:30.

(Thereupon, at 12:03 o'clock P.M. court was adjourned for the noon recess until 1:30 o'clock P.M.)

End Tk 18
Tk 19 fls.

AFTERNOON SESSION

1:30 O'Clock P.M.
February 25, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of 12 and 4 alternates returned into open court and in their presence the following further proceedings were had and evidence intoruced, to-wit:)

MR. SILETS: Your Honor, before we resume, we are having some slight problem in the seating arrangement back here. Would you require the Marshal to give us another chair for a secretary?

THE COURT: All right. Mr. Mansfield.

MARSHAL MANSFIELD: Your Honor, the secretary has a chair. She is sitting on one.

MR. SILETS: There are a lot of people seated in here in the lawyers gallery that obviously aren't attorneys and some of the chairs have been taken up. We would like to have another chair for the secretary.

THE COURT: See if some arrangement can be made. Gentlemen, may Mr. Duffy be excused?

MR. BERKE: Beg your pardon?

THE COURT: May Mr. Duffy be excused?

MR. BERKE: As I understand, he will be needed on the motion to suppress, your Honor.

MR. HAGGERTY: There was a question about Mr. Duffy, whether he is needed for the motion to suppress.

THE COURT: If you need him--

MR. HAGGERTY: (Interposing) Your Honor, Mr. Duffy can return to New Orleans for the practice of law on the promise to return on a phone call.

THE COURT: All right. We will take that up.

MR. BERKE: If your Honor please, we would like to file an offer of proof that we talked about yesterday and give the government a copy.

THE COURT: All right. May we proceed?

MR. BERKE: Yes, your Honor.

JAMES R. HOFFA,

a defendant, called as a witness in his own behalf, having been previously duly sworn, was recalled and testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. BERKE:

Q Now, Mr. Hoffa, in record Page 3294 Mr. Edward Partin, in answering one of the questions referring to you, stated as follows, "He was on him again about making the contact--not making the contact like he told him he would and he wanted some insurance." Did you ever make any statement like that?

A No, sir, I did not.

Q On record Page 3298 Mr. Edward Partin made the following statement in the record, "Hoffa called Mr. King a stupid SOB for thumbing around and not getting the job done."

Did you ever make any such statement like that?

A No, sir, I don't talk to my associates that way.

Q On record Page 3301, Mr. Hoffa, Edward Partin in the record said as follows, "He asked him how things were looking, the best of my recollection, and had he made the contact. He said he didn't think he would need to because things looked pretty good."

Did you make any statement like that?

A I never heard Ewing King make any such statement and it just doesn't tie in with the very question above there, it doesn't make any sense to me.

Q All right, sir. On record Page 3309 Mr. Edward Partin in the record made the following statement, "He," referring to you, Mr. Hoffa, "He said that he was disturbed because the highway patrolman wouldn't take the money. He said if he had have taken the money it would have pinned him down and he couldn't have backed up."

Did you make any such statement like that?

A I made no such statement and I listened very closely to the discussion here from the witness stand and I never heard the discussion of money, I made no such statement.

Q On record Page 3332, continuing into record Page 3333, Mr. Partin made this statement, "I told Mr. Hoffa Mr. Tweel needed a jury list in order to call back Mr. Hall and tell him who was on the jury."

Did you make any statement like that, Mr. Hoffa?

A No such statement was made by myself and the jury list, as explained from this very chair, was a public matter.

Q Did you make any statement to Mr. Partin that Mr. Tweel needed a jury list?

A In the first place I didn't know Mr. Tweel so I could not have made such a statement and I never made such a statement.

Q Were jury lists available to the public in court and also through the newspapers?

A In the court and in the newspapers. Any person in Nashville who wanted a list could have gone right up to the Court, as they can do here, get the copy of the panel, plus the jurors after they were in and no problem, names, addresses, community.

End Tk 19
Tk 20 fls.

Q Were the jury lists freely distributed in the courtroom?

A I don't say they were freely distributed. They were available to those who wanted them. I don't remember seeing them scattered around the courtroom.

Q On record, page 3337, Mr. Partin made the following statement in the record.

"When we went to go out, he told Mr. Hoffa when we went to go out that he had contacted the party."

Let me read it again. This is just what it says.

"When we went to go out, he told Mr. Hoffa when we went to go out that he had contacted the party."

A It doesn't make any sense as to the question whatsoever but I read the transcript and I know what he said he was talking about and I deny that Mr. Dorfman told me that he had called Mr. Tweel from the railroad station and the only way that I know is by reading the transcript that happened in this court. An absolute lie.

Q Then on record, page 3377, Mr. Partin said, "Yes, sir, I reported to Mr. Hoffa about it." Did he make any reports about it?

A He made no such statement to me and it wouldn't have made any sense out of context the way it is stated there. However, I again read the transcript. Apparently applied to some phone call he had made in Dallas and if he didn't relate

the information out of Dallas which he didn't know, I don't know how I would have known. I think everybody here listened to it as I did very garbled.

Q Mr. Hoffa, will you state what Mr. Dorfman was doing in Nashville on the several trips that he made from his home to Nashville, Tennessee, to attend this trial?

A Yes, sir. First of all, as I stated, Allen Dorfman is a friend of mine as well as association in business. And personal enterprises as well as being the agent for the health and welfare plan that we have plus some International business. But more particularly in October, November, and December 1962, as almost every ending of every year, we have to anticipate the program for health and welfare for the next 12-month period. And we generally start discussing it 60 or 90 days ahead of time.

And we had to have a complete report for the February meeting, by February, have it prepared I think for the March meeting as to what we anticipated changing. The medical plan, and the out-of-work benefits, and the life insurance to our members and so because I was tied up in all of this legal proceedings, I couldn't sit down as I normally did for a full day or an evening and give it the necessary attention. And go over all the figures involved, but I did it sporadically as I could fit it into my time.

Plus the fact, I wanted one more thing for our

members which I have been trying to get for a long period of time, and that was a complete eyeglass and denture care. One of my dreams for our membership and their children and wives having full teeth, eyeglasses, and I had asked Mr. Dorfman 12 months before to work with all the doctors in the south and the middle west, some 200 doctors, to put together a tremendous program of being able to administer eyeglass and teeth and find out the approximated cost per hour that we would have to receive from the employer in our forthcoming contracts to be able to pay for this type of care.

And so we did spend many long discussions at various times over these two particular programs plus the fact and they were trying to work out some method of having insurance for our retired members. We've been in a constant running discussion and kind of a feud with the Treasury Department over being able to give to our retired members life insurance, and free hospital care. And again we were discussing that. We discussed it also with our attorney, Dave Previant, who likewise represents the health and welfare and the pension plan.

So altogether we were tied into a question of discussion of the renewal question of the new eyeglass and teeth plan plus the necessary discussion concerning our retired members.

Q Mr. Hoffa, did that require many hours of discussion

between you and Mr. Dorfman?

A Off and on it took a considerable amount of time because of the small geographical area such as this area here in Chattanooga. When you start trying to anticipate the construction of an eyeglass and dental care plan you have to anticipate what type of membership can have its own clinic, its own laboratories, and be able to build the teeth and eyeglass as against using so-called dead-time in clinic construction that are in the various communities already built.

And it was a very tedious discussion because of the figures and because of the numbers of people who had been consulted and what we had to do in the overall plan.

Now, the end result of that discussion was that when we completed the negotiations of the master nationwide contract before I came here, we were able to use that information in the negotiations and we now have putting into effect of February of this year, eyeglass and teeth for all our members and their children throughout the entire United States.

Q Was that program formulated part of it during the Nashville trial?

A This was a 12-month overall discussion, but it was becoming to accumulation of a final decision on what we were going to do with these various figures and composite information we had gathered from all those people and Allen was the one who was coordinating and putting it together so I would under-

stand when I went in front of the employers and trustees as to where we were going. It was a long, tedious problem.

TK 20A
EW 1

Hoffa - Direct

Q Did Ed Partin in any way contribute to any of these discussions or to any other International Union business that you had there?

A Well, of course, he would have no right to be there. He was not an International officer nor was he any trustee of any plan.

Q Did you invite Ed Partin up on any business for you, Mr. Hoffa?

A No, sir. When Ed Partin called I think the conversation will reflect it, he was the one who requested the meeting because of his own personal problems as I explained without going into it again and he came there.

He kept coming back repeatedly, not at my request or any insistence but because he realized he was in serious problems and trouble both legally and with the International Union to where he wasn't going to be an officer much longer unless he corrected what he was doing.

End Tk 20A
Tk 21 fls.

Q All right, sir. Mr. Hoffa, it has been stated that some telephone calls were made to your home on the evenings of October 21st and October 22nd. Were you at your home in Detroit or even Washington on those evenings?

A No, sir, I was in Nashville, Tennessee. As I stated, I came in at 10:45 on Sunday morning, which was the 21st, and I stayed continuously during the balance of that week except I think I went home on most of the week ends to take care of business somewhere in the United States that had been previously arranged which I couldn't cancel.

Q Had you previously had many speaking engagements all over the country?

A In anticipation of the trial I had curtailed all that I could but some were of long standing and some I had to go back and take care of my commitments.

Q Who besides your family received calls at your Detroit home?

A Charles O'Brien, a boy who I have raised since he was a baby, lives there with his wife and his two children now in my home, which I use on the occasions that I come to Detroit, I live with them and they would receive phone calls in the exchange that is listed under my name and I believe they have the number also in the same Vermont exchange.

Q Mr. Hoffa, where do you spend most of your time with reference to the home, I mean your residence, in what

city do you spend most of your time?

A The majority of my time now is spent in Washington, however, I am traveling three or four days a week, almost constantly the year around somewhere in the United States, so I am not much at home any particular place but almost live in an airplane somewhere in the United States traveling.

Q May I ask it this way, sir, then, not trying to get into your personal problems, but where do you say your wife or your son spend most of the time when he is at home, would that be Washington or--

A (Interposing) No, my son would spend time at the Robson address and my daughter is married, lives happily in--, outside of St. Louis in Glendale, Missouri, and my wife travels with me occasionally and moreso now on political matters than she did before, but she would either be in Washington in the winter or out to the lake in the summer.

Q At any time, Mr. Hoffa, while you were in Nashville, did you see Larry Campbell in Nashville, Tennessee?

A No, sir.

Q During trial time?

A No, sir, he was not there to my knowledge.

Q At any time while you were at the trial in Nashville did you ever see Nicholas Tweel?

A No, sir.

Q At any time while you were at this trial in Nashville did you ever see Thomas Ewing Parks?

A No, sir.

Q Mr. Hoffa, do you know whether or not at any time in the past either Thomas Ewing Parks or his son was employed somewhere as a car wash or janitor?

A I understand that Parks' son worked occasionally on picket lines or car wash in Detroit and I think in our car wash where we have our own car wash for our agents, I think that maybe Parks, checking our records since this trial started, may have drawn one check for an isolated picket line that he was picketing on in Detroit. I had no knowledge of it but going through and listening to all of this I had our research go into it and check out and I think either in '58-'59 he may have had a single check for a picket line activity that he was on at the insistence of someone of my business agents where we were involved in an economic dispute with an employer, I did not know him.

Q Excuse me. In any event, you did not ever meet him or know of him?

A No, sir.

Q Prior to this time?

A No, sir, I did not either, him or his son have I met to my knowledge and I know I did not.

Q Mr.Hoffa, do officers of local unions have

authority to call strikes?

A Only after they have had a two-thirds vote of their membership authorizing the strike can they file a form. That form must go through the joint council, which is a subordinate body set up to correlate activities in geographic locations and if the council approves it it then goes into the area conference that the local belongs to and from there it is eventually funneled into the vice president in that area and from the vice president it comes into Gayle Wesmey's department, who was here the other day, and she checks the legality and the finality of the form and only then, after polling the agents or the vice presidents, if it is over 200 people, can I authorize a strike.

A local union cannot authorize a strike unless they follow that procedure and get from the International benefits or economic support.

Q Mr. Hoffa, do you know whether or not in January of this year, shortly before this case came to trial, whether or not Edward Partin called any strikes without authority of the International Union?

A He called two such strikes.

Q How did you first become aware of the fact that he had called such an unauthorized strike?

MR. HOOKER: We object to that.

MR. BERKE: I think that is material, if Your

Honor please.

THE COURT: All right.

MR. BERKE: It shows the--

THE COURT: (Interposing) Proceed.

A I was in Chicago, Illinois, at the Edgewater Beach Hotel negotiating a master agreement and Tom Owens, who is the director of my construction division, called the Chicago office or the Chicago hotel, informing me that he had a wire and read me the wire over the phone for instructions.

After receiving the wire and the content I notified him to tell Partin by wire and by phone to immediately return those people to their jobs because we had an agreement with the construction industry that where it affects more than our single trade that we will sit down with all of the trades in the building trades council before they are out of work because of a picket line we would establish and I took that procedure and wires went to Partin, to the building trades and to the construction employers council alerting them that we were not supporting the strike and ordering the people back to work.

Q Mr. Hoffa, the marshal now will hand you some telegrams there, sir. I wish you would examine those and I believe they occurred in January, 1964.

Tell us what those telegrams are and what you did about them.

A First of all, this is a telegram from Mr. James L. Gill, Manager.

MR. HOOKER: May we see them, if Your Honor please?

THE WITNESS: Beg your pardon?

THE COURT: All right, allow--

Q (Interposing) Do you identify those as being telegrams?

A Yes, sir, it's two telegrams to myself.

Q Just a minute. We will file them for identification and let Mr. Hooker see them.

A Oh, excuse me.

MR. DALE: 219, Your Honor.

MR. BERKE: File them collectively, Mr. Clerk.

MR. DALE: Collective 219.

(The telegrams referred to above were marked Def. Hoffa's Coll. Exhibit No. 219 for identification only.)

MR. HOOKER: We think these telegrams, if Your Honor please, are completely irrelevant to this inquiry. They are dated after the--

THE COURT: (Interposing) Let the clerk see the telegrams.

MR. HOOKER: January, '64, one of them at least.

MR. BERKE: Before he came here to testify, Your Honor, and it deals with the trusteeship, if Your Honor please

We think it is very material.

THE COURT: Allow them to be introduced.

MR. BERKE: We would like to introduce them in evidence.

THE COURT: All right.

(The telegrams previously marked Def.Hoffa's Coll. Exhibit No. 219 for identification were received in evidence.)

BY MR. BERKE:

Q All right. Just give them back to Mr. Hoffa. Now, Mr. Hoffa, will you please explain those telegrams, sir, what they are and what you did about them?

A Telegram addressed to myself is from Mr. James H. Gill, notifying us that a strike had been called at Tidewater Construction Company on a Crown-Zellerbach project; the second telegram came from the Tidewater Construction Company, James W. Rushing, also notifying us that the job had been struck and requesting a--, stating also he had placed in the mail a letter to us giving us, our organization, the complete outline of the problem at that particular project and requesting that the local union follow the grievance procedure of the local agreement. In return--

Q (Interposing) Mr. Hoffa, if you will, please, give us the dates of the first two telegrams that you read, sir.

A Yes, sir. The 15th, I can't--, the date is blocked

off. Here it is.

Q 15th of January?

A January 15th. We received it in our office.

MR. NEAL: What year?

MR. BERKE: 1964.

A Both of the telegrams and the return, the wire went from my office on January 17th.

Q Mr. Hoffa, on that telegram of January the 17th, 1964, was that a telegram that you sent to Mr. Partin?

End 21 A Under my instructions this telegram was sent, yes.

Tk 22 fol

Q Will you read that telegram to the jury, sir?

A "Mr. E. G. Partin, Secretary Teamsters Local Union No. 5, 1675 Airway Drive, Baton Rouge, Louisiana.

"You are instructed to order your members back to work immediately. Cease picketing at the Tidewater Construction Project. St. Francisville, Louisiana. Call me at the Edgewater Beach Hotel, Chicago, Illinois. Phone LO 1-6000 before noon tomorrow or your local union will be placed under trusteeship immediately. Signed James R. Hoffa, General President."

Q All right, sir. May I have that, sir? I will ask you if just prior to that time also in January, 1964, if Mr. Partin called another unauthorized strike?

A Yes, he did.

Q I hand you herewith two telegrams and ask you first without stating what is in there, if you can identify those telegrams as being telegrams which you received and telegrams which you sent Ed Partin?

A Telegram I received his wire, sent to Tommy Owens who is the Director of the Construction Division which was immediately relayed to me because of the lack of authority for Owens to carry it out.

Q I would like to file those for identification, Mr. Marshal.

MR. HOOKER: We would like to see them.

MR. BERKE: Yes, sir, we will, as soon as they are marked.

THE CLERK: No. 220, your Honor.

(The telegram referred to above was marked for identification as Exhibit No. 220.)

MR. HOOKER: Same reason as stated before, if your Honor please, I don't see the relevancy of these telegrams. Apparently sent in January of this year.

THE COURT: Allow them to be introduced.

BY MR. BERKE:

Q I will ask you to introduce those as evidence to your testimony, sir. Now, tell us what those two telegrams are and give us the dates also, sir.

A Received in the office on December 12, 1963. The wire went back, it must immediately follow the first one. There is no date on here that I can see offhand. But the first one is a wire from Local 406, complaining that the Teamsters Local No. 5 was striking over jurisdictional dispute.

Q All right, sir. Did you send Mister--excuse me.

A Excuse me. (Interposing) This was signed by Hunter Wharton, General President, and Frank Handley, Assistant General President of the Operating Engineers.

Q All right. Did you send Mr. Partin any instructions and orders as respect to that strike?

A Yes, sir.

Q Will you read that telegram, sir, and read the date on it?

A As I say, I don't find a date. I don't know why it isn't here. It should be dated with a stamp.

"Mr. E. G. Partin, Secretary-Treasurer Local Union No. 5, 1675 Airway Drive, Baton Rouge, Louisiana.

"You are hereby ordered to cease all picketing of the construction project at Peter Conn and Hart and McGowan Subcontractors and instruct your people to return to work immediately pending settlement of the dispute in accordance with procedures set forth in local construction agreement.

"You are further instructed to advise me immediately on compliance of this order. Copies of this telegram have been sent to the contractors and all other unions affected by this work stoppage. James R. Hoffa, General President." It looks like it went to Bidell and Goldson.

Here is the date, I finally found it, January 27th.

Q Mr. Hoffa, in response to the third count of this indictment, did you do anything in the way of aiding, abetting, counseling, commanding, inducing, or procuring Thomas Ewing Parks so to act, did unlawfully, knowingly, willfully, corruptly endeavor to influence and intimidate, impede petit juror in the United States District Court in the

discharge of his juror duty, to wit, Gratin Fields, sir?

A No, sir, I didn't know the man. And did not authorize anybody to be my agent or did I aid or abet anybody in such a charge.

Q In reply to Count 4 of the indictment, did you do anything in the way of aiding, abetting, counseling, commanding, inducing, and procuring Nicholas J. Tweel so to act, and did unlawfully, knowingly, willfully, corruptly, endeavor to influence and obstruct and impede the due administration of justice?

A No, sir.

Q In your trial, sir--

A (Interposing) Excuse me, sir.

Q In your trial, sir?

A No, sir. I authorized Nicholas Tweel to do nothing and didn't know the gentleman. He was not my agent. I did neither assist, aid nor abet.

Q Mr. Hoffa, in reply to Count 5 of the indictment did you do anything by way of aiding, abetting, counseling, commanding, inducing, and procuring, Ewing King so to act, and did unlawfully, knowingly, willfully, corruptly, endeavor to influence--

MR. NEAL: (Interposing) If your Honor please, may Mr. Berke read the indictment correctly if he is going to read the indictment?

THE COURT: Allow him to proceed.

MR. BERKE: Reading it just like it is.

THE COURT: Allow him to proceed.

BY MR. BERKE:

Q I will ask you again, did you do anything by way of aiding, abetting, counseling, commanding, inducing, and procuring Ewing King to so act, and did unlawfully, knowingly, willfully, corruptly, endeavor to influence, intimidate and impede a petit juror in the discharge of her duty, in any way at all?

A Her duty?

End Tk 22
T 22A fls.

Q Yes, that is I assume they are talking about Mrs. Paschal.

MR.NEAL: It is set out in the indictment, Your Honor, that is my point I am making, not reading the indictment properly and asking him kind of confusing question. Why doesn't he read the indictment if he is going to ask these legal questions? It is the jury's burden to determine or the jury's responsibility to determine what he did. He ought to read the indictment.

THE COURT: Allow him to ask if he knows.

BY MR. BERKE:

Q In her duty, to-wit, Mrs. James M. Paschal. Did you do--

A (Interposing) I don't understand the question, sir.

Q Did you do anything to aid or abet Ewing King to get Mrs. Paschal to do any of the things charged in the fifth count of the indictment?

A No, sir, I did not. And he was not my agent. And I neither aided or abetted nor did anybody have any authority to speak for me.

Q Mr. Hoffa, this Commercial Carriers case that was tried against you there, sir, was that a misdemeanor that was being tried?

A Yes, sir. No. 302, Taft-Harley.

Q Mr. Hoffa, I believe I neglected to ask you how many children you had. How many children do you have?

A I have two children. I have a daughter, Barbara Ann. Married. One granddaughter.

I have a son James. University of Michigan. Studying law.

Q Are these your two children there standing there, Mr. Hoffa?

A Yes, sir, indeed. Properly so.

MR. BERKE: You may ask him.

THE COURT: Any further examination by any defendant?

MR. BERKE: Just one minute, Your Honor. In connection with another matter. That is all. You may ask him.

MR. REDDY: Anybody over there going to ask?

MR. BERKE: No.

THE COURT: All right, examination for the government.

MR. BERKE: You might pass those to the jury.

THE COURT: All right.

MR. HOOKER: May I proceed?

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Hoffa, I understood you to say that you did not say to the witness Partin, well, don't worry about it too much because I've got the colored male juror in my hip pocket. One of my business agents Campbell came into Nashville prior to the trial and took care of him. And you stated you did not say that?

MR. HAGGERTY: I object to that as not a quote, not similar to the question asked on Page 3283, 3284, 3285.

MR. HOOKER: Give me No. 3284 and I will read it from the record.

BY MR. HOOKER:

Q This is Mr. Partin's answer quoted directly from the record. I thought I asked you the substance of it but to get it verbatim if that is the way they want it. Page 3284.

"Mr. Steinberg as I recall was standing inside Mr. Hoffa's room with him and I went to the door and told Mr. Hoffa that I was fixing to leave and was talking to him in general. He asked me to come in. And motioned to Mr. Steinberg to step out. I pushed the door partway to. He told me at that time, I told him I thought the trial didn't look too well. When he got to talking to me, he said, 'well, don't worry about it too much.' He said, 'Because I have got the colored male juror in my hip pocket.'

"He said, 'One of my business agents Campbell came

into Nashville prior to the trial and took care of it.' "

Did you say that?

En 22A

23 fol

A I answered it in detail. I denied it, I deny it now.

Q And didn't you give in detail the reason, one of the reasons that you didn't say that because before this trial you didn't know who the jury was and that couldn't have happened?

A That isn't true. I knew that the jury had, just as well as you know, that 10 days before the selection of the jury that there was a panel released to our attorneys.

We investigated the background, the character of the prospective jurors for the purpose of using that background check in the selection of the jurors as we would like to have did with this one.

Q Didn't you state on direct examination here this morning before lunch and give one of the reasons why that couldn't have happened that you didn't know the names of the jurors before the trial and that Campbell could not have come down here and picked --

A (Interposing) Well, I tell you now, that's exactly right, if there's 88 people, and I think that was the figure, 88 people, and a panel of 12 people as jurors and 4 alternates were going to be selected from it, it would be rather pathetic for anybody to think they could guess who was going to finally come out of the 88 or 80 people to sit in the jury box, wouldn't it?

Q Is that your explanation now?

A That's my explanation now and will be.

Q All right, I want to ask you in that connection to look at Government's Exhibit No. 147.

A Hand it here.

Q The official panel that was released to the public on October 2nd, 20 days before this trial, and ask you to state if the names of Mrs. Paschal and Gratin Fields, a juror that you were talking about with Campbell and Parks, if their aames are not both on that list, Mrs. Paschal I believe is on the second page and Gratin Fields on the third?

A There's 35 people on here. If my recollection serves me right, this was published in the newspaper, 80 or 88 people, and I do see Mrs. Paschal, which is the fourth name down on the second juror list and when I look at the third juror list I find Gratin Fields, No. 6.

Q Didn't you have that list as soon as it came out?

A My attorneys had it and hired investigators to make the appropriate proper legal investigation required of any competent counsel, as you have done many times for an investigation to be properly able to select a jury.

Q And the jury was selected from that list actually, wasn't it?

A I would assume so.

Q Yes. And you -- so you did have 20 days before

the trial, certainly within that a list of 35, the regular panel, the name of Gratin Fields?

A No, I did not, my attorneys had it.

Q Your attorneys had it?

A That's right.

Q But you claim that the Defendant Campbell, Larry Campbell, did not come down to Nashville and fix Edward Parks, you deny that?

A Now, Mr. Hooker, I can't hear you when you holler. If you will just go a little slower and not holler, I will answer you. I cannot hear you the way you holler.

Q You can't hear?

A Not the way you holler.

Q You can't hear?

A Not the way you were hollering, it just gets in my ear, I can't understand the words.

Q Is there something wrong with your hearing?

A No, it's just I am not used to people hollering at me.

Q You are used to doing the hollering yourself at people?

A You are not going to holler at me, now, quiet down.

Q I say, you are used to hollering at people?

A THE WITNESS: Your Honor, when I get the question

right, I will answer, not answer otherwise.

MR. SILETS: I object to this exchange.

A You are shouting.

MR. SILETS: On the ground --

THE WITNESS: (Interposing) It's ridiculous, shouting at people.

BY MR. HOOKER:

Q Don't you shout at people all of the time?

MR. SCHIFFER: Objected to.

MR. SILETS: Objection.

A I don't shout at people when I am having a formal discussion with them.

Q All right, I am asking you this question, do you deny that during that 20 days that you had the name of Gratin Fields that you got in touch with Campbell and had him come to Nashville to get in touch with Parks about that juror?

A I have now denied it twice, once in direct once on cross, and I will do it the third time.

Q How long have you known Larry Campbell?

A I told this jury sitting right here better than 10 years and I was responsible for him being hired on 299's payroll. There is no secret about it. We pay withholding tax and file with the government that he works for us.

Q You knew that he was from Nashville?

A What is that?

Q You knew that Larry Campbell was from -- born and raised in Nashville?

A Oh, I had an understanding. He fills out a form when he comes to work for us, we have to make application to the government, I think we had that knowledge.

Q And you did, you knew that?

A I said I think we had that knowledge.

Q Did you know?

A I am quite sure --

Q (Interposing) You know his father worked at the Andrew Jackson Hotel where you stayed?

A What is that?

Q Did you know Larry Campbell's father that worked at the Andrew Jackson Hotel where you stayed?

A Made it my business to find that gentleman, shake hands with him in an elevator one day and tell him Larry is a good boy who worked for me, yes, I did, a little old man.

Q When is the last time that you saw Larry Campbell before the commencement of this trial on October 22nd?

A Probably at a stewards' dinner for Local 337 the previous Saturday, it wouldn't surprise me. We had all of the stewards in for a dinner with their wives, the complete 37, I was principal speaker, and I would assume he was there, but offhand I couldn't say that for positive, but I would think so.

Q When is the last time you had a telephone conversation with him?

A I couldn't tell you.

Q Now, I understood you to say on direct examination as you stated now, that you did know Campbell but you did not know Parks?

A I said that and I made an explanation when I came back from lunch as to the fact that Parks had drawn a check, my understanding was somewhere from '58 to '59, somewhere around the neighborhood of $70 for some activity in regards to an economic dispute we were having with an employer, I think Pure Oil, I am not quite sure, but I had not known Campbell, he was merely a symbol.

MR. BERKE: You mean Parks.

A Excuse me, Parks, a symbol of a check, otherwise I could not have refreshed myself.

Q Did you know that Campbell had a relative in Nashville named Parks?

A No.

Q Did you know anything at all about any conversation between Campbell and Parks over the telephone during this trial?

A Did I know about it?

Q Yes.

A I wasn't there.

Q Well, I say, did you know about it?

A I did not, I was neither -- I was not in Louisville and I did not know Parks, I could not have known the content or the phone calls.

Q Now, I understood you to say that you did not know Mr. -- the Defendant Tweel?

A I said it and I say it now.

Q Did you meet him when he was in Nashville on October 22nd?

A No, sir, I did not, not even your witness said I did.

Q Mr. Dorfman didn't introduce you to him?

A Mr. Dorfman did not introduce me and I don't know except what he testified here his business with Mr. Tweel.

Q You didn't see him?

A I said I didn't.

Q And you deny that you said --

A (Interposing) Just a moment. Don't say that now, that's not what I said this morning to this jury and I don't like to be misquoted. I said I would not have known him from any one of a hundred people in the lobby if he would have been there.

Now, don't get it put any that I didn't see him. I may have saw him, as I saw hundreds of people in the lobby coming and going in and out, but so far as knowing him, I

23-8

did not know him.

Q Well, you didn't see him to know him?

End 23
23a fls

A That's right.

Q. Yes. Now, didn't you say to Partin that, "Oh, yes, Tweel is down here to help us, down here to help me."?

A I explained to you that this happened on the 23rd, checking the transcript and the hotel records you gave here that I was tied up with my--no, I think the 22nd it was--he came in there after 12:37, Partin checked in, that I was tied up with my lawyers and I discussed the question of my lawsuit and did not meet Partin or anybody else until I had my lawsuit underway.

Q Did you know the relationship that existed between Tweel and Dorfman?

A No, sir.

Q Did Dorfman ever discuss with you his friendship with Mr. Tweel?

A Couldn't tell you. I had many discussion with him. He may have discussed it with me somewhere in a slight way, I don't know the name then and now did not ring a bell as to any prior conversations; however, I have many conversations with many people and I don't want to get tied down that he didn't somewhere mention a word "Tweel," I don't know.

Q Did Mr. Dorfman--did you talk to Mr. Dorfman on the first day of this trial, October 22nd, the first day of the trial at Nashville?

A My recollection is that you said Dorfman got in

at one o'clock in the morning; his recollection is he got in at 10:30 or 11. That Tweel--I think it was Dorfman's recollection he got in at 11, it was both of their statement that they met slightly and neither Dorfman nor Tweel--and I testified today they gave me the records the following morning--that's what I testified to this jury for.

Q Did you see them both at the courthouse on the morning of the 22nd?

A Did I see them at the courthouse?

Q Yes.

A I did not. I was very busy taking care of Hoffa, as I am trying to do here.

Q Did you talk to Mr. Dorfman that day about his friend, Mr. Tweel, being here?

A I did not.

Q Did Mr. Dorfman ever mention to you that Mr. Tweel had been there?

A Not to my recollection.

Q You have no recollection of that?

A I have no recollection. I don't try to recall what happened in '62 unless it is a very vital question or I can have a research of some record to prove it.

Q You don't remember any time during the trial Mr. Dorfman mentioning Mr. Tweel's name?

A I don't recall him ever mentioning Tweel's name

and I would not try to fool this jury or you that I can remember that far back who all I talked about during that trial, I couldn't do it.

Q You have no recollection of it now?

A I do not.

Q All right.

A And I don't have no recollection then.

Q How long have you known the Defendant Ewing King?

A As I stated, somewhere in the neighborhood of ten years, rather personal the last three years when he was president of the local union, that's what I said.

Q Was he a subordinate of yours when he was president of the local union?

A Nobody is a subordinate of mine except those who work directly for me and he was a local union president with autonomous rights and an associate.

Q Is his union a member of the council you referred to?

A Southwest or Southeastern part of the Southern Conference.

Q Did you or not, in connection with your relationship with Mr. King, come to Nashville last summer and make a speech in his behalf?

A I certainly did. I did everything I could humanly to do to get Ewing King elected and if it wasn't for the government he would have been elected.

End Tk 23A
Tk 24 fls.

Q Did you know, did you ever have Mr. King up east somewhere in connection with an election up there during the summer?

A I certainly did. I had him in Philadelphia Local No. 107 because he worked for a truck line that had a terminal in that city. I was endeavoring to win an election. And I brought him in there to talk to his former acquaintances that he had became friendly with when he pulled in and out of Philadelphia as a highway driver. I certainly did. Super Service Freight Company is the name of the company.

Q Now, when you got into Nashville on the 21st, Mr. King met you at the airport, did he not?

A Yes, sir, as I testified he did and picked up Gayle, Larry and myself.

Q Picked up the three of you?

A Yes, sir.

Q And then did Mr. King attend the trial of the case practically every day?

A Mr. King was kind enough to pick us up because we had many briefcases to go to court. He assisted us in whatever way he could during the trial in the means of transportation regularly as he could possibly do being excused from some of the duties he had running a local union, yes, sir, he did.

Q Was he there practically every day?

A Most of the time, yes,sir.

Q Was he in and around your suite practically every day?

A I won't say that. He was inand out of there occasionally. I think generally I met Ewing either in front of the hotel or in the coffee shop or in the lobby as we were preparing for court. He did come back, however, in the evenings many times and see whatever assistance he could be of before he went home during the course of the trial and I think he brought his family there once. We had some pictures taken. And I attended I believe two meetings in behalf of Ewing King with stewards and membership of Local 327.

Q Was he in and around your suite?

A I said that.

Q All right.

A Wait a minute, now. Just as I said, though, don't get it that he lived there. In the mornings occasionally. In the evenings occasionally. And I believe a couple of times on the week end as I say he brought his family. Came down himself one other time and took me for a ride around the town and the union here did what Nashville, see what Nashville consisted of in the way of industry and what we had not yet organized we should organize and I agreed then if he were re-elected I would give him an organizing grant to do it.

Q Did you talk to him on those occasions?
A Yes, sir. Don't ride around without talking to him.
Q Discussed matters of the trial?
A I discussed the trial with him, I certainly did.
Q Did he tell you that he knew Mrs. Paschal or her husband, a highway patrolman?
A He did not.
Q Did you know that Mrs. Paschal's husband was a highway patrolman?
A What?
Q Did you know that Mrs. Paschal's husband was a Tennessee Highway Patrolman?
A I think, I don't want to be held to this because I may get my recollections mixed up with the trial here, but I think somewhere there was an article in one of the newspapers in Nashville that she was the wife of a highway patrolman. I am not quite sure but I think that was one of the news items in either the Banner or the Tennessean. I would have to check it to make sure but I think it was.
Q Did Mr. King tell you up there at the Andrew Jackson Hotel at any time that he was going to Woodbury?
A Excuse me. Excuse me.
Q To see a man named Mutt Pitts?
A Excuse me. Let me answer the other question.

Q Yes, sir.

A I believe on our report back from the investigator that we had investigating the prospective panel that there is where I heard that he was a patrolman. I believe that is where I got the knowledge from.

Q That is before the trial began?

A Yes, sir, I'm sure that is where I got the knowledge from.

Q Did Mr. King tell you that he was going to Woodbury to see a truck driver, see a man who worked at the truck terminal named Mutt Pitts?

A He did not.

Q Did he tell you that after he went up there he had been to see Pitts?

A He did not.

Q Did Mr. King in his close association there, close association with you that you have described, did he tell you that he was going to Woodbury to see the highway patrolman, Mr. Paschal, the husband of the juror?

A Mr. King never told me he was going to meet any highway patrolman. However, I had many discussions with Mr. King. Whether or not he mentioned he knew a member and I understand a steward named Pitts, whether or not he ever talked about the fact he was going to meet the steward I would not sit here and tell you. I don't know because he was

Q Yes, sir.
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Q That is before the trial began?
A Yes, sir, I'm sure that is where I got the knowledge from.
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A He did not.
Q Did he tell you that after he went up there he had been to see Pitts?
A He did not.
Q Did Mr. King in his close association there, close association with you that you have described, did he tell you that he was going to Woodbury to see the highway patrolman, Mr. Paschal, the husband of the juror?
A Mr. King never told me he was going to meet any highway patrolman. However, I had many discussions with Mr. King. Whether or not he mentioned he knew a member and I understand a steward named Pitts, whether or not he ever talked about the fact he was going to meet the steward I would not sit here and tell you. I don't know because he was

a member of our union. We could very well have discussed the matter of a man named Pitts. I don't know.

Q Did he tell you that he had gotten a call from Mutt Pitts that the beagle hound had died and that then for him to come to Woodbury?

A He didn't tell me any such thing.

Q No such thing?

A That's right.

Q Now then, after he got back from Woodbury the trip that he described, did he tell you that the FBI had followed him?

A He told me one morning that the FBI had been continuously harrassing him from the very day of the trial, and they had became so brazen that they even had come to his home and blocked him off from going into his home.

Q Did he tell you that the FBI had followed him out the Murfreesboro Pike?

A I don't recall any such discussion. He may have very well have said that. As a matter of fact, he did say they were living with him.

Q Did he tell you the next day after this trip that he had exchanged cars with a man named George Broda, exchanged a Thunderbird for a Ford to go to Woodbury in it?

A I couldn't tell you that. We may have rode in the Ford one day. I don't know. If he changed cars from the

Thunderbird to the Ford, we might have rode in the Ford one of these days. I don't know.

Q You knew George Broda?

A I very well I know George. Fine organizer.

Q Did Mr. King tell you when he got back the next day at the hotel there, did he tell you he had met with Mr. Paschal out on a country road after 12 o'clock at night by a spring?

A He did not.

Q Did he tell you that he had met out there with Paschal and a man named Pitts?

A Now, Mr. Hooker, he didn't tell me any such thing.

Q Did he tell you he went to Woodbury?

A I told you he did not.

Q Sir?

A I told you he did not. Now, however, so we don't get this confused, you asked me two questions. One about Mutt Pitts. One about the question about Woodbury and whether or not he ever talked to me about Pitts I don't know. He was a delegate. He may have talked to me about it.

Q Did he ever talk to you about Paschal?

A Not to my recollection, no.

End 24

Tk 24A fol

Q After he had made this trip to Woodbury you say he never mentioned the name of Paschal to you?

A I have no recollection of any discussion with him concerning any Paschals.

Q Do you have any recollection any time during the trial of him talking to you about Paschal?

A I told you I have no recollection of him talking to me about a Paschal.

Q Do you mean to tell the jury that after Mrs. Paschal was excused from the jury in the United States District Court at Nashville, Tennessee, that you and Mr. King never talked about that?

A Now, that wasn't your question.

Q It is my question now.

A Well, fine, then I will answer it now. When the secret session was had in Judge Miller's court, quite naturally we talked to King. Our attorneys, as a matter of fact, if I recall rightly, interrogated King about it because it affected our trial. King denied it then as he denied it from here.

Q Did King deny that he had gone to Woodbury and seen Paschal at this spring at twelve o'clock at night?

A I don't think that was the question. I think the question was asked of King whether or not he was guilty of any tampering with Mrs. Paschal. If I recall rightly, the

attorneys felt and I think the transcript will reflect here that King was not involved.

Q Well, did Mr. King at the Andrew Jackson Hotel or at any other place after it had arisen and Mrs. Paschal had been excused from the jury tell you about going to see her husband at the spring that night after midnight?

A I have no recollection of talking to King concerning that. However, it would not be uncommon that if we had been told by the Court that King was charged with talking to Paschal, that we may have discussed somewhere his part of it. I have no recollection of a conversation.

Q While you and King during all that time as you have related were very good and friendly, were you not?

A Friendly right now.

Q And you never mentioned to him at any time even after Mrs. Paschal was excused anything about him having talked to her husband?

A Now, you know if you would listen to what I answered here, I said it was my recollection that the lawyers talked to King. Whether or not I was in that meeting I don't know. Whether I talked to the lawyers after. But I have no recollection of the lawyers either telling me or King anything about a highway patrolman nor Paschal.

However, let me say this, I was in the secret session with Judge Miller and I had full and complete

possibilities or, as a matter of fact, not possibilities, observance, of the discussion in Judge Miller's court where Judge Miller asked him, did King meet with him? His answer was no. At his home.

Q Met with him?

A Met with Paschal. His answer was no. Paschal's answer was no. At his home. You can look it up, Mr. Neal, you will find it right.

Q Mr. Hoffa, I thought you said--

A (Interposing) Just a moment, let me get through now. Let's just let the jury--

Q (Interposing) Take all the time you want.

A I am. I've got plenty of time. We've been here all these weeks. It is time the truth came out.

If I recall rightly, at first Paschal said that he had not met King at his house. If I recall then a discussion in the chambers, it finally was a fellow by the name of Pitts who met him.

And if I recall then it came out something about the fact that King and he had discussed a promotion. Now, I don't have it completely in my mind but that is the highlights remaining in my mind of the discussion in the court of Judge Miller.

Q Why, I understood you to say that there was nothing mentioned about King seeing the patrolman in con-

nection with Mrs. Paschal's discharge.

A My recollection, it could be very vague, I have heard so much in this courtroom and that that I can get confused on those problems, but it seems to me that listening to that discussion in Judge Miller's court and the record is here, you can check it, that there was a question and answer between the patrolman sitting in a chair such as I am sitting in where the Judge interrogated that patrolman concerning a meeting with King with Mutt Pitts. And if I recall rightly, the patrolman said he saw nothing improper about the meeting.

Q Well, now, you saw Mr. King after that meeting, did you not?

A I saw King regularly, I told you, during the trial.

Q And after this meeting in Judge Miller's office you saw him a number of times?

A I certainly did.

Q Did you ever ask Mr. King, your friend, after that, what he had said to the patrolman?

A I told you that our attorneys talked to him.

Q Did you talk with him?

A Just a moment, now, I will answer you. Don't do that.

Q Don't do what?

A Don't interrupt me when I am talking.

Q I didn't mean to interrupt you. You are not used to being interrupted, are you?

MR. BERKE: Just a minute, if your Honor please, I object to that.

THE COURT: Sustain the objection. Strike the comment.

End Tk 24A
Tk 25 fls.

MR. BERKE: Let's let the witness finish. Go right ahead.

A Now, I may very well have had and I don't recall it, a discussion with King, what took place in the question of the judge's chambers, I can't recall that far back. I told you at the very beginning I can't, but I do not recall any discussions other than what I read in a statement that Paschal himself made under oath, not once but twice, that King had done nothing improper. That's what I read. If he perjured himself here, that is not my responsibility, that is the Court's responsibility.

Q Well, Mrs. Paschal was discharged from the jury that day, was she not?

A Mrs. Paschal, and I remember that discussion now that you recall it, the judge was very concerned not to ruin the lady's reputation and if I remember correctly there was some discussion as to how are they going to get release of the lady juror from the jury without creating any problem for her and, if I recall also, I remember roughly now it was somewhere near Thanksgiving and I think that the judge, in an endeavor to avoid any more embarrassment than she had, gave us off -- not off, I don't know whether he did or not, I think we requested off, but I don't know whether he did or not, Thanksgiving so that he would be able to get this other alternate into the box, as I say, without embarrassing the

lady too much but, however, despite that, there was tremendous publicity.

I just recall this vaguely in my mind. I don't want to get pinned down until we read the transcript. Mr. Neal has got it. Let him read it to the jury, that's the way to do it.

Q After that was all over and you went back to the hotel and you saw Mr. King on subsequent occasions, you tell the jury that you never discussed with him the question of him going to see her husband?

A Now, listen here, I didn't say that to this jury, and I am sure that they listened to what I said.

I said it was very possible that I discussed that with Mr. King and I am quite confident our lawyers did. That's what I told this jury. Let's don't confuse the jury.

Q But you don't remember what you said to him?

A I told you at the very beginning I cannot recall conversations, not in '62, I couldn't tell you what happened in October, November, December of '63 unless I referred to my records. That is why I brought them here in case something I had to refresh my memory on because I am a busy man and I don't have the possibilities that a lot of you people have of refreshing yourself constantly with records so that you can recall what happened last week. That is why you have law books and transcripts. I do not, most of mine is from notes,

from memory, any action, get it over with and go to the next project, so I don't want to get hitched down to any flat word that I may say yesterday, let alone today, and I don't think anybody here can repeat in this whole courtroom what he said yesterday, what he said last week, who he called two months ago on the telephone, and what was the conversation. We are not all of us as competent as some people who have to read notes five minutes after they ask the questions.

Q I want to ask you while you were in here in this hearing with Judge Miller, when Judge Miller asked Mr. King if he had been up to see Paschal, if he denied it?

A Say that again, sir.

Q I want to ask you if in this hearing before Judge Miller when Judge Miller asked Mr. King if he had been up to see Paschal if Mr. King denied it in your presence?

MR. BERKE: If your Honor please, I have no particular objection to him answering.

A I will answer.

MR. BERKE: Just a minute. It's an objectionable question and we want to object to that, if your Honor please, because it's asking what some other defendant has said.

THE COURT: He may say what he heard, what he remembered.

A This was in response to Mr. King?

Q Well, didn't, if he stated on direct examination

didn't he take the Fifth Amendment?

A I said this was in response from King --

MR. BROWN: (Interposing) Your Honor, he didn't say that on direct examination at all. Mr. Hooker is purposely misquoting the record.

MR. HOOKER: No, sir.

MR. BROWN: He stated that the Court told him he shouldn't say anything because he wasn't there with counsel and he didn't. Exactly what he said, Mr. Hooker, is trying to inject something in here that is not in the record. We object.

MR. SILETS: Your Honor, I --

MR. BRANSTETTER: (Interposing) May it please the Court, the Court instructed counsel when this matter arose once before not to mention these matters. I think the record is very clear on that. I think there was certain papers handed up to your Honor.

Now, if we are going to consistently inject into this proceeding matters of this sort, I think they are highly prejudicial on behalf of the Defendant Campbell, and I move for a mistrial.

MR. SILETS: That's my position, too, on behalf of the Defendant Dorfman.

THE COURT: All right.

MR. SILETS: This claim of privilege granted by

the Constitution of the United States. It's known by counsel. Every lawyer that goes through law school knows it's improper and as well as this Court, and Mr. Hooker in asking that question to elicit that answer, which he knew was the fact, that he has created enough prejudice here to constitute a mistrial, your Honor.

THE COURT: Well, allow the motion for mistrial to be overruled, sustain the objection to the question. Proceed.

BY MR. HOOKER:

Q I want to ask you what you did, Mr. Hoffa, yourself when Mr. King was asked the question if he had been to see Mr. Paschal?

A Now, why don't you read it to the jury? You don't make any mystery out of it.

Q I want to ask you what you did yourself. Didn't you give him a sign or signal to take the Fifth Amendment?

A Now, why didn't you read what you have in front of you to the jury?

MR. BROWN: The Court just ruled on it, Mr. Hooker. He evidently can't hear the Court because throughout this whole trial he has paid no attention to the Court's ruling, he has tried to come through the back door if the Court locks the front door. He makes no -- he doesn't even make any semblance of obeying what the Court instructs him.

He couldn't forget from one question to the next what the Court instructed him to do and he keeps injecting these prejudicial matters in this lawsuit.

THE COURT: Well, he can ask the witness what he did. Overrule the objection.

MR. BROWN: Yes, your Honor, but we are not objecting to that, but it's injecting the other insiduous remarks at the end of it. He doesn't stop at that time.

A What would you like to do now?

Q Did you give Mr. King the sign by holding up your hand, the five fingers on your hand to take the Fifth Amendment when Judge Miller asked him if he had been to see Mrs. Paschal?

A Now, let me tell you what happened so you will take the mystery out of this. You asked for the answer, I will give it to you.

The answer is no to start with, which I told Judge Miller, but the explanation is this, that Mr. Shaffer, the associate of Mr. Neal and Mr. Durkin, Mr. Lewin, very conveniently, to create further disturbance in the court, as they had done already in the trial, when Ewing King walked to the door like that right there, and I was sitting at a table just about over there, I was leaning my hand against my head like that, and when Ewing came in that door and I knew he was coming in, it was no surprise, the judge had

announced it, I simply had my hand like this and I simply put my hand down.

Mr. Shaffer jumps up and says, "Judge, he told Mr. King to do this or that."

I said, "Now, just a moment, your Honor." Knowing I had no right to speak I did it anyway, I said, "Just a moment, your Honor. I did no such a thing."

Now, you read the transcript and see if it isn't there and Mr. Bufalino jumped up and said, "Now, your Honor, I was sitting right alongside Mr. Hoffa, he did no such a thing."

And it was clearly explained in the closed session what happened, and I say again I did not and Mr. Shaffer can say what he wants, he's only one. Read it, Mr. Neal, you have it. Let the jury know the mystery, take it out of all this mysterious range, will you, nothing exciting about it.

End 25
25a fls

Q Well, the end of the mystery was that King never answered.

MR. BRANSTETTER: Now, may it please the Court, that's a specific question.

THE COURT: Sustain the objection.

MR. BROWN: Your Honor, we ask that Mr. Hooker be admonished. He doesn't pay any attention to objections.

THE COURT: Let's move along, gentlemen.

A Well, I want you to know that was not my answer.

MR. SILETS: Just a moment, sir, just a moment. Your Honor has sustained the objection. Your Honor has seen the merit of the defenses position that it was objectionable.

We again renew our motion for a mistrial. Mr. Hooker knows and the Court knows that it is wrong and the Court recognizes by its sustaining the objection. There is nothing that can be gained further by this. This is clearly wrong and we ask the Court to declare a mistrial.

THE COURT: Overrule the motion.

MR. BRANSTETTER: May all the defendants have the benefit of the motion?

THE COURT: Overruled as to all defendants.

A I want to clear up the statement that Mr. Hooker said with my answer. It was not my answer and he has no right to speak for me. My answer was that Mr. King did not answer. That was my answer. Please don't put words in my mouth.

Q Well, I say after you told--

THE COURT: (Interposing) Just proceed, Mr. Hooker.

MR. HOOKER: All right.

BY MR. HOOKER:

Q Now, Mr. Hoffa, how long did you say that you had known Mr. Allen Dorfman?

A I said I knew Allen Dorfman's father for a long period of time and that I knew Allen Dorfman when he had just came out of college and that he went into service, came back, went back into college, came out of college and went in the insurance business. I think the jury remembers I said that.

Q What kind of insurance business is he in?

A All types.

Q You mean by that he handles casualty, liability, bonds?

A Even write a policy on you.

Q Any sort of insurance?

A That's right.

Q And I guess he has written them on you?

A Certainly did, I am paying for it.

Q How much of the union's business does Mr. Dorfman handle?

MR. SCHIFFER: Objected to, Your Honor.

A I'd say somewhere between thirty-five million and

fifty million dollars a year maybe.

Q And that's in premiums, $50,000,000.00 a year?

A I would think that's right, I'd have to check with Allen, I think that's about right, between 35 and 50 million.

Q Do you know what the commissions on that would amount to?

A Well, I will tell you first so you understand about it. We run an experienced rating of about 94% so it means 94 cents out of every dollar that we pay in to that insurance company goes back out to our members, that's what it means, with no guaranteed retention, to the best of my recollection, no guaranteed retention, either to us or to them, but it's on a year to year basis where they cannot change the premium in the middle of the year.

We have a composite insurance form which takes in the dependents, the wife and the husband on a composite base to get a composite rate which is the cheapest type of insurance you can buy and for that our policy, and this can be investigated, it has been by you and by Mr. Neal, is one of the finest in the country with the cheapest rate and the lowest administrative expense in the country.

So far as Allen Dorfman is concerned it is my understanding that Republic of Texas, I believe that is it, Republic of Texas uses Allen Dorfman's agency as a servicing

agency which they pay him, Ibelieve, now, I don't want to get tied to this, one or one and a half percent, somewhere around in that percentage, for his services.

Now, you talk about federal tax, state tax and everything else. They probably make less money per dollar wise on our policy than almost any group policy inthe country; because of the volume they make a handsome profit at the end of the year.

End 25A

Fol.

Q Well, what I wanted to ask you was, Mr. Hoffa, simplify it, what was Mr. Dorfman's commissions amount to in a year?

A You ask him. You have got the wrong fellow.

Q You don't know?

A I have no--, I'm not trying to hide it. I just have no recollection of it but I said that I think he gets one or one and a half percent of the total gross dollar and out of that he has his administrative costs, his taxes, and what comes up in the way of a net-net, I have no way of knowing.

Q Say the premiums that he handled run about $50,000,000.00 a year?

A Between $35,000,000.00 and $50,000,000.00 a year.

Q A year?

A I think so.

Q Now, did you supervise that business?

A What business?

Q The insurance business.

A Which end of it?

Q What part do you take in it?

A Which end of it?

Q No, you tell me.

A You tell me and I will answer you.

Q I mean do you look after the details? Did you keep up with that?

A Are you talking about now, the question of the fund end or the insurance end?

Q I am talking about the insurance end that is handled by Dorfman.

A I keep myself as well versed as a trustee should according to the law where I can intelligently speak on it.

Q Do you offer that talking about insurance to him as being the basis for your many, many telephone calls to him?

A No, I have personal calls to him. I have business calls to him. I have complaints that come in concerning the insurance that I talk to him about. I have a lot of things to talk to him about. You don't do that volume of business without phone calls or conversations.

Q What were you talking to him about several days say, in the matter of ten days or two weeks prior to this trial and all during the trial?

A You tell me.

Q Did you ever discuss with him anything about the trial?

A I could very conceivably have. Do you mean this trial here?

Q No, I mean the trial at Nashville.

A Very conceivably I could. I don't know what I talked to him about. I wouldn't try to fool anybody that I knew what I talked about but if I'm going on trial in Nashville

and he and I got a problem concerning insurance, what would be more logical to talk about when can I meet him to discuss the insurance problem?

Q Well, you have offered here in evidence a record of certain calls and I'm going to ask you about some calls.

A You go right ahead.

Q You can refer to your own records.

A You don't mind if I get my records? Let's make sure you are right.

Q Look at your records. That is what I want you to do.

A Let's just get them out. What do you want to talk about?

Q Did you call him on October 3, 1962? 9:57 at night and talk to him for five minutes?

A What day?

Q October 3rd, 1962?

A Let me tell you something, if I sit here and told you that I talked to him specifically and what I talked about I must be an idiot to this jury. You don't know what you talked about yesterday in your office.

Q Have you got a record there of it?

A I have here a record of a composite number of phone calls both to the WI number and the WH number which is the only thing intelligently that can come out of a file

because you can't have conversations out of IBM cards. I think the jury witnessed that.

Q But you don't know without reference, you don't have a record showing how long you talked to him on any particular date?

A It doesn't make any difference if I talked to him one minute, one second, or for an hour on the telephone. It would be unnecessary so far as I'm concerned to keep track of that conversation.

If we transacted our business in a satisfactory way or concluded it or carried on to another discussion I would call him back again. I wouldn't try to fool anybody. I don't know.

Q So, in other words, you can't refer to your own records there and tell us what calls you made to him or him to you from October 3, 1962 until the time this trial was over?

A You can't do it either if somebody didn't figure it out from the IBM cards and you don't know what I said either.

Q I am asking about your records.

A I will tell you, give it to you. I will be happy to read it.

Q Do you have them in dates?

A I have a phone call to Washington Sterling 3-0525. Breakdown of long distance phone calls from September 27, 1962

to December 30, 1962. WI 5-5980, 14 calls. WH 3-0024. 24 calls.

Q What period was that for?

A I said between September 27, and December 30, 1962. That is what I told you.

Q 14 calls on one number and what? How many other numbers?

A You see, you can't even remember that. 24.

Q I am counting on you to remember it.

A I just reminded you.

Q You have got the paper in front of you. How many calls during this period?

A I told you if you let me complete my statement, I will give you the answer. That is the trouble, you get interrupted.

Q Complete it.

A 38 on those two. 38 on those two numbers. Three calls to Dearfield number from my credit card which is 3-6332 13 calls to the WI number.

Two calls to the Whitehall number. Those five calls taking place in October.

I have also in my Detroit office--, I believe 12 calls.

Q How many calls is that all told?

MR. SILETS: Fifty-five.

MR. HOOKER: Fifty-five?

MR. SILETS: Yes, sir.

BY MR. HOOKER:

Q Fifty-five calls for what period?

A September to December. September 27, to December 30.

Q Do you have a record there of two calls or do you remember two calls, one on November 19 when Mr. Dorfman called you from Las Vegas and on the 20th he called you from Reno? Do you remember that?

End 26

26A fol.

A No, sir, I don't remember that. He could very well called. We have a lot of business in Las Vegas. You don't leave the wrong impression with the jury. We have about $18,000,000 worth of loans in Vegas which Dorfman's responsibility is to see that we have proper insurance to cover our members. We have a loan on the Riverside in Reno and it is Dorfman's responsibility to see that the insurance covers the Reno property in case of a fire or a loss. That our funds are covered. That is my responsibility and that is probably what he called me about.

Q Well, you say that these calls, these 55 calls that you had were all about insurance or about some personal matter?

A No. That is a pretty broad deal. If you say was it insurance or personal matter. I would say you would cover any conversation in either one of those. I would buy it.

Q Let me limit it, was it anything about the jury in the Nashville case?

A I said it was not.

Q All right.

A Let me say this, let me clarify it, you say jury, what do you mean by this? Whether or not I was going to have a jury trial or not?

Q No. When the trial was going on, anything about

any member of the jury?

A No.

Q None of them were about any member of the jury, member or members of the jury?

A What member are you talking about? Let me --, wait a minute, give me the dates again you are talking about. Let's clear it up.

Q I'm talking about from the beginning of the trial on October 22nd to the end?

A No, sir. You talked about two phone calls from Las Vegas and Reno.

Q I'm not limiting it to that now. I asked you about those two calls. You said you didn't remember them.

A I didn't say that at all.

Q Well, what did you say?

A I said very conceivably I could have received those calls and I explained to you why I could have received them.

Q But you have got no independent recollection of them?

A Why, of course not.

Q Now, I am talking about any of these 55 calls that you may have made during this period of this trial, were there any discussions with Mr. Dorfman about anybody on the jury?

A Let me say this to you, whether I discussed how things were going in the trial or not, I can't tell you. But I will tell you this much, any discussion I had was a proper discussion and a legal discussion concerning my trial. Whether or not by chance he would have asked me, how does the jury look or not, I don't know. I say this jury right here for your information and sit down with Dorfman put all 12 of them down in a box and I tried to figure out the jury here as to whether or not they believed a perjurer or whether they believe our witnesses and I discussed it with everybody. I don't deny I discussed this jury. I discussed the jury every single night with my attorneys in Nashville, Tennessee. I discussed this jury every night in the Hotel Patten right here in Chattanooga every night. It would be ridiculous if I didn't. My life depends on this verdict.

Q You ate dinner many times at O'Brien's Beefery, did you not?

A Yes, sir, we did, many nights. Very fine place to eat.

End 26a
27 fls

Q Did you go there on one occasion when Mr. Dorfman went with you and also Mr. Partin went with you?

A I have no recollection of Partin going with us. He may very well have. We had always from 10, 15, 20, as high as 30 people with us, and I had no recollection of Dorfman or Partin but both could have been, put it that way.

Q Did you go there on one occasion and stop at the Union Station on the way back?

A Yes, I recall it distinctly when it was brought out here and refreshed my recollection, I remembered distinctly.

Q Did you have a discussion there with these men that testified that Mr. Zimmerle and Mr. O'Brien--

A (Interposing) I tell you what we discussed now that that is brought up, I think that ought to be cleared up. Several times walking back from O'Brien's I had looked at this tremendous old building, which you have saw many times and I am sure you will agree is an engineering marvel, and I watched the bottom of that operation where they had opened up the docks and were loading, unloading boxcars and trucks and I was interested to determine what would be the cost factor of handling freight in that outmoded method of handling it and one day walking down through there we stopped at the bridge, you know, the little bridge that goes over and I looked at the installation and I said to, I believe it was

Dorfman, "I want to go in that building and I want to look and see just what the total area of space from down to the bottom of those tracks to the height of that building is. We could build a new modern structure, how many floors could we put in there."

We went into the building and we were trying to decide how high was the interior of the building to determine where it takes about a 22-foot space for a normal dock, how many tiers of docks could we put in there and whether or not if a railroad built a new structure what would they do engineeringwise as compared to what they did in the old days when they built that building.

That's what we discussed, Mr. Hooker.

Q And did you jokingly bet with somebody a Coca-Cola about the height of the ceiling?

A There was, I think, three people, you only brought two, there was three, I think one of them died, if I remember, to the best of my memory.

Q Zimmerle, O'Brien, and you think there was still a third one?

A That person died, according to my investigation. We jokingly talked about it. I asked them how long they had been there. What was the height of the building and we got into a discussion, I thought maybe it was a hundred feet high, they said 75, we said we would bet a Coke. I believe we

talked about that.

Q Was Mr. Partin there that night?

A As I told you, I could not recall who was there that night, whether it was Partin or who was there, I couldn't tell you that, I don't know.

Q Was Mr. Dorfman there that night?

A I am quite confident he was because we were discussing the question.

Q Did you see Mr. Dorfman go to the telephone there that night?

A I never paid any attention, he could have very well done it according to the discussion here he probably did, I don't know.

Q Did you see the telephones out in the middle of the station there on a kind of a circular affair?

A They are not in the middle, Mr. Hooker. As you come up the stairway there's some outside, one outside phone, I believe, over here, and when you come in the doorway there's a pole and on this pole I think there's three phones, two or three phones to where you can have the conversation with more than one person with a little piece of plastic in between so the voices wouldn't get mixed up, if I recall it rightly, that thing is what I described. I saw the picture. It refreshed my memory when I saw the picture. I couldn't even recall that.

Q This is the one?

A I recall it.

Q I hand you here Exhibit 179 and ask you if they are the phones out in the center there that you are talking about?

A I believe that--I think there must be four phones in the way it looks, two on each side, it looks to me, I think right back over into here, there is where I walked, as I walked out I think there's some closed phone booths over in here, if I recall rightly.

Q Pass that to the jury, please, Mr. Sertel.

Now, did I understand you to say that you didn't know whether Mr. Dorfman made a call or not?

A I didn't say that.

Q What did you say?

A I said that Mr. Dorfman may very well have made a call and based upon what I listened to here of the IBM cards from the telephone company he apparently made a call and couldn't get through.

Q From that pay--from some phone there?

A That's what the telephone man said right from this chair or otherwise I wouldn't recall it.

Q Now, how did you--how did you go back to the Andrew Jackson from the Union Station?

A I took a cab back, I think there was two cabs

came, if I recall correctly, I believe there was a TV program on that night that we were interested in seeing and I think we realized we couldn't walk between the railroad terminal and the hotel in time to see the program and we called--there was a cab and we whistled, he turned around and I took a cab to the hotel, I believe they kept on walking.

Q They kept on walking?

A I think some of them did and most of us went back to the hotel, yes.

Q Do you know whether Mr. Dorfman rode or walked?

A Well, according to the testimony here he must have walked.

Q Walked. Do you know whether Mr. Partin walked with him or not?

A I have no recollection, I only know that when--what they talk about here.

Q You do not. All right. Now, Mr. Hoffa, did Mr. Partin call you in January of this year?

A I couldn't tell you, frankly, I don't know. If you have got a receipt I will tell you. If you had told me I could have checked my office, they could tell me, I don't know.

Q Did Mr. Partin ever at any time before the commencement of this trial tell you that he was going to testify in this case?

A Are you kidding? Of course not, not to my knowledge.

Q Well, did you hear two witnesses that you offered here swear that he called you on the phone and said that he would be here to Chattanooga to testify if you called off the strike in Baton Rouge?

A Say that again now.

Q Did you hear two witnesses testify here day before yesterday, I believe it was, that you put on as your witnesses for the defense, that on two occasions that Partin called you and said over the phone that if you called off a certain strike in Chattanooga that he would be up here--I mean in Baton Rouge, that he would be up here in Chattanooga to testify?

A I heard you vehemently deny that statement was made and I am not sitting here and telling you that it was made or not. I wasn't there, it was in Baton Rouge. I could not answer who was right or who was wrong, I wasn't there, you said.

Q Now--

A (Interposing) Excuse me, now. You say a telephone call to me?

Q Right.

A Now, I think likewise it was testified by Partin, and I have a pretty good memory, too, when I read things, if

I catch up every night and don't forget them, I think likewise Partin testified here that I was traveling some place and he couldn't get ahold of me, if you recall, and he talked to my Washington office. You recall that information, that's what he told this jury.

Q I am talking about two telephone calls that were testified to here, one by a man named Tynes and the other one, I believe, a man named Albin from Partin at Baton Rouge to you in January of 1964 in which Partin told you that if you called off the strike in Baton Rouge that he was coming up to Chattanooga to testify.

A That is not the testimony. If you turn to the transcript, read it to the jury, they will see you are misquoting the transcript. That's not the testimony and that's not the transcript in this trial. Read it.

Q Well, did a man named Stevick testify?

A Now, you are getting some place. Let me tell you what he said. I think there was a boy named Bonny or something here.

MR. BERKE: Denny George.

A Another--Denny George, Stevick and Denny George, he said, if I recall correctly, that Partin read to them a handwritten telegram and that he read the handwritten telegram then went in a partitioned wall and allegedly talked on the telephone so loud that you could hear it all

the auditorium and I know that building because we own it, that you could hear all over the auditorium there because the offices are on that side and you sit about 800 people in the middle of the hall and that was how he said he had heard Partin say if I didn't call off the strike and he said he didn't know if he was talking to me or not under your cross examination. Now, that's what was really said to this jury. Now, don't fool them. Read the transcript and see if I am right or you are right.

End Tk 27
Tk 27A fls.

Q On the contrary, didn't Stevick testify to this, "He said he showed us a copy," I am reading from 6829.

A Read it.

Q "He said he showed us a copy of that telegram. We were standing in the hall. He showed us a copy of that telegram and it instructed him that he could reach Mr. Hoffa at the Edgewater Hotel in Chicago, Illinois if he called him, which he did. He went in the office and called Mr. Hoffa and he told Mr. Hoffa over the phone that if he was forced to remove that picket line he would come to Chattanooga and testify."

Is that true or false?

A Now, can I see that transcript and I will show you how false you read it.

Q All right.

A Bring it here, if you will. Bring it here. I will find it. You don't need to give me the line.

Q Here is where I read it, right here.

A Let me tell you what he said. That was some kind of a trick.

Q Read it.

A Just a moment. I will read it to you. Just a moment. Excuse me, please. "Well, Mr. Hooker interrupted you. Will you please state again without interruption what Mr. Partin said.

"Said?

"Had said.

"He said," now listen, I will read you personally from the record.

Q Now, I want you to read what I read first.

A Well, I will read it then will read what you got in the record.

Q You said I read it wrong.

A I read--

MR. BERKE: Don't interrupt, Mr. Hooker.

A I will read it, just a moment.

Q Read.

A Let the jury find out what is going on here.

"He said he showed us a copy of that telegram. We were standing in the hall. He showed us a copy of that telegram and I instructed him that he could reach Mr. Hoffa at the Edgewater Beach--, Edgewater Hotel in Chicago, Illinois if he called him, which he did. He went in the office and called Mr. Hoffa and he told Mr. Hoffa over the phone that if he was forced to remove the picket line he would come to Chattanooga and testify."

You objected yourself, Mr. Hooker.

Q Well, didn't you--,

A (Interposing) Just a moment.

MR. BERKE: Just a moment.

A You objected.

Q All right.

A Just a moment, please, let's clear it up. You objected.

Q No, I want--

MR. BERKE: (Interposing) Just a minute. Let him answer, let him answer, Mr. Hooker. You asked for it, now let's--

A (Interposing) Just straighten it out.

Q Now, I asked him to read that and he has got it.

A Well, if you want to hide it from the jury give you the book back.

End 27A

Tk 23 fol.

Q You claim that I read this wrong. Now, did I read it wrong or not?

A I said that you read it wrong to this jury as to what the man ultimately said and if you want me to read it to the jury I will read it and I guarantee the jury will agree with me. Now, let's read it.

Q First, let me ask you, you read what I read, didn't you?

A I read what you read and--just a moment, and I read your objection and you made the man re-clarify it and he re-clarified it on the bottom of the page of No. 6829 and that is what should be read to the jury because that is the last statement the man said right here.

MR. BRANSTETTER: May it please the Court, let's have it read.

MR. HOOKER: I'm going to let him read it.

MR. BRANSTETTER: Let him read it now.

BY MR. HOOKER:

Q Wait a minute. Did you read what I read exactly the way the same way I read it?

A I said you had mis-read it to this jury because you read something that you personally objected to it and tried to make them believe that it was the last words and I wanted to read the last words to show that I was right.

Q First, I want to ask you, you said I read it

wrong; did I or not?

A You read it right in context but out of context where the final question was, yes, that is what you did.

Q Go on, re-read it if you want to.

A I will be very happy to.

"MR. HOOKER: We object to that.

"THE COURT: Overruled.

"BY MR. BERKE:

"Question: Just continue on.

"Answer: That is all I know, sir. I overheard that.

"Question: Well, Mr. Hooker interrupted you, will you please state again without interruption what Mr. Partin--

"Answer: Said?

"Question: Had said.

"Answer:"

This is what I want to explain to the jury.

"Answer: He said that if he was forced to remove the picket line--"

And it is entirely different as you will notice up here.

"From the Tidewater Construction Company in St. Francisville, Louisiana, he would come to Chattanooga and testify against him."

That is what he said. Now, that was the simple statement the man finally said, that the man said after your objection.

BY MR. HOOKER:

Q Well, it sounds to me very much like the same thing.

A No, this doesn't sound the same at all.

THE COURT: Let's take a 10-minute recess.

THE WITNESS: It doesn't sound that way at all. Let's don't mislead the jury.

(Thereupon, at 3:03 o'clock P.M. court was in recess.)

(Thereupon, after recess court was in session and the witness returned to the witness stand.)

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE WITNESS: Mr. Hooker, may I read a line that I left out so you will have a complete record?

BY MR. HOOKER:

Q Yes, sir. I was just looking to see if everybody was here, Mr. Hoffa. Now, yes. Read whatever you want to.

A I made a statement that this was between a partition and I didn't see it. I made it my business to borrow your transcript and find it. On the following page,

6830 and on cross examination by Mr. Neal.

"Question: Mr. Stevick, how do you know he was speaking to Mr. Hoffa? Could we get that straight?

"Answer: I do not know if he was speaking to Mr. Hoffa or not. I heard him through a partition."

And that is what I wanted to clear up because he did not talk to me. If my recollection is right, his own testimony was that he spoke to Mr. Tommy Owens in my Washington office. He did not talk to me. He talked to Tommy Owens in Washington. That is my answer here.

Q So your answer is with reference to those two witnesses who testified here, Mr. Stevick and--

A Mr. George?

Q What was the other one's name?

A Mr. George.

Q Dortch?

MR. BERKE: Mr. George.

BY MR. HOOKER:

Q Mr. George, that in January of this year, you did not have any telephone conversation with Mr. Partin in which he said in substance that if you called off the strike in Baton Rouge he would come to Chattanooga and testify?

MR. HAGGERTY: We object to the form of the question. The question is predicated upon that your answer to these questions, which is an improper question.

THE COURT: Well, restate your question.

BY MR. HOOKER:

Q My understanding is that you say that you did not have any conversation with Mr. Partin in January on two occasions in which he told you that if you called off the strike in Baton Rouge that he was coming to Chattanooga to testify?

End Tk 28
Tk 28A fls.

A I have no recollection of any such conversation. If it took place and based upon Partin's testimony which I don't know whether you can believe or not, it must not have happened. I believe he had talked to Owens in Washington rather than me at the Edgewater Beach Hotel in Chicago.

Q Did what? I didn't hear the last remark.

A I say I believe Partin talked to Owens in Washington rather than myself as the wire requested talk to me at the Edgewater Beach Hotel in Chicago.

End 28a
29 fls

Q But you had no conversations with him in January?

A As I say, I have no recollection of any conversation in January, if it took place I cannot recall it taking place, it may have.

Q All right. Now, Mr. Hoffa, when did Mr. Partin get to Nashville in relation to the trial of the Test Fleet case?

A According to his testimony he arrived there in Monday afternoon or -- I think it was 12:27, wasn't it?

Q Well, actually I think he said he got there on Sunday.

A I don't think he said that, I think he said he got there at 12:27 on Monday.

Q Well, did you see him that day?

A I do not recall seeing him that day, the following day or the following day because I told you, I told the jury that I had closeted myself with my attorneys for the purpose of making sure that the preparations for my case in the initial state was in proper order.

Q You were in Nashville from October 21st, 22nd, whenever you got there?

A Some 63 days, including Saturdays and Sundays.

Q Almost continuously until December 23rd?

A Except on weekends, I believe, Mr. Hooker.

Q I understand.

A I went in and out.

Q The rest of the time you were there every day?

A I was required by Court to be there from Monday to Friday.

Q Give me the exhibit of Mr. Partin's hotel bill.

A I think he was there 31 days out of 63, I think I checked it the other night.

MR. BERKE: I think, Mr. Hooker, you will find that the 22nd is correct and that your memory is not too good about it.

MR. HOOKER: All right. I stand corrected, Mr. Berke, you are probably right about that.

MR. BERKE: That's right.

MR. HOOKER: I wasn't making any point of it anyway. Well, I don't care.

MR. BERKE: Trying to explain the infallibility of memory.

BY MR. HOOKER:

Q Mr. Hoffa, I don't care to ask you about these bills if you have already checked them. You say you have checked them and how many days was Mr. Partin in Nashville during the trial of this case?

A I would estimate 31 days out of 63 possible days that he was there in the total period.

Q And how many times did you see him?

A I could not tell you.

Q Can you give the jury any idea?

A No, sir, I wouldn't attempt to. I told you it may be on a sporadic basis, but I cannot tell you and be honest with this jury that I could tell you what day I saw him, what hour or where I saw him, except I do know that in preparation of my case at the beginning of the case I would look up my attorneys and would take care of my business as I intended to do in preparation for the Court.

Q I want to ask you, Mr. Hoffa, if you heard various lawyers testify here?

A I beg your pardon, sir?

Q I want to ask you if you heard various lawyers testify here in the absence of the jury about the number of times?

MR. SCHIFFER: Objected to, your Honor, at this time. If there is anything that Mr. Hooker wants to refer to outside of the presence of the jury -- does he now want to bring everything in -- if he wants to bring everything in that the jury has not heard, let's introduce the whole thing.

THE COURT: Sustain the objection.

MR. HOOKER: Well, I want to be deferential with your Honor's ruling. This would be in reference to the number of times that Mr. Partin --

MR. SCHIFFER: (Interposing) Object to anything of reference which is prefaced that way.

THE COURT: Sustain the objection.

BY MR. HOOKER:

Q Did Mr. Partin ever on any occasion keep the door to your suite?

A I believe I testified to that on direct that there did come a time after we found somebody prowling our rooms at night that we made arrangements to have Partin for a few evenings at the door outside so nobody could overhear our conversations with myself, my attorneys, and I believe I said later on Chucky O'Brien replaced him.

Q Did you ask him to stay there at the door?

A I could have, Steinberg could or anybody could have, I couldn't tell you that, who did.

Q Now, I want to ask you in connection with a conversation Mr. Haggerty (Berke) has asked you about most of them and I understood that on each occasion that you denied the statements that Partin had attributed to you?

A I do.

Q I want to ask you if you didn't on the occasion that he came into your room, if you didn't tell him that you wanted him to pass something?

A I repeated to this jury before and I repeat it now, I did not.

Q Well, now, you were not asked about this. Did he put his hand behind, did you put your hand behind or your pocket like that and hit your rear pocket?

MR. HAGGERTY: I object to it unless he reads the direct quote.

Q All right, I will read the direct quote. Mr. Partin testified --

MR. HAGGERTY: (Interposing) What page?

MR. HOOKER: Page 3238.

End 29
29a fls

BY MR. HOOKER

Q "I said he called me into his room and told me when I came back he may want me to pass something for him and he put his hand behind his pocket like that (indicating), and hit his rear pocket."

Did that take place?

A What is your question? Did I hit my rear pocket?

Q Yes, sir.

A I don't have any money in my rear pocket, it's right here, and I never hit my hand on my back pocket to my recollection and I say positively I never made the statement.

Q You did not make that statement to Partin?

A I said it.

MR. HAGGERTY: That has been asked and answered.

THE COURT: Sustained.

BY MR. HOOKER:

Q Now, Mr. Hoffa, you were asked the question whether or not this was a fact, I will refer you to the page, I want 3246, I have it here, I believe-- Partin testified at Page 3246, "Would you state what was said in your conversation with Mr. Hoffa?"

And he answered, "Yes, sir. We had talked for several minutes in general and he nodded his head to me and he told me that--I don't know whether to repeat the words that were said or not in front of the ladies here.

"MR. SCHIFFER: Well, Your Honor--

"THE COURT: (Interrupted) Answer the question.

Then he answered and said, "Yes, sir. Well, he said, 'The dirty bastards went and told the Judge that his neighbor had offered him $10,000.' And he said, 'We are going to have to lay low for a few days."

Did that take place, did you say that?

A I denied it and deny it now and that was not the exact quote but I still deny it.

Q Well, do you want to read it?

A No, I have it here.

Q Read it from the record. I want you to read it.

A All right. Read it back. You missed one word. Go ahead. You missed one word. Go ahead.

Q All right. I want you to read it yourself.

A You read.

Q I want you to read it, you accused me of misquoting.

A You have to read it back from this machine to show that you missed one word.

Q You read it.

A Simultaneously.

Q Let the jury pass on it.

A Beg your pardon?

Q You read it to the jury and let them pass on it.

A I'll be very happy to. I will read it from both

of mine. You missed the word, one word is what you missed.

"Yes, sir. Well, he said, 'The dirty bastards went in and told the Judge that his neighbor had offered him $10,000.' He said, 'We are going to have to lay low for a few days.' "

You left out the word "in".

Q I left out the word "in"?

A As I read it here.

Q Where is the word "in"?

A Right there.

MR. HAGGERTY: After "went".

BY MR. HOOKER:

Q "Went in." I left out the word "in"?

A As I read it, as I read it that's the way I read.

Q Well, otherwise I read it right?

A I didn't say you didn't read it, I said you left out a word. I think the jury heard what I said.

Q What I want to ask you about in connection with that, didn't you testify here in chief that the man--, you couldn't give us one of the reasons, didn't you say this, that the man wasn't even on the jury at the time?

A What did you say?

Q Didn't you tell the jury in your examination in chief that you couldn't have said that and assigned as one of the reasons for it that the man was not even on the jury

at that time?

A I didn't say that at all. You read the question back you will find that is not my language.

Q I am talking about your language now.

A I am talking about--

Q (Interposing) This morning.

A When you told me that I answered Mr. Berke and I did answer him in full and I did not say what you have just said I said. I will try to quote it. I don't want to get held because I am not as good as some people at re-quoting exact verbatim speeches.

I said that we had been called in to Judge Miller's court and he had told us that the incident had been related to him and advised us not to make it public but only to counsel and the defendants and the judge would know what was said.

I further said that I believed that we had discussed it that evening in the hotel and several days thereafter with our counsel. I think that's that I said. You read it you will find it.

Q Well, now, as a matter of fact, the man who was referred to, Mr. James Tippens, was sitting on the jury and had been accepted by the government, hadn't he?

A That's not right, not to my recollection, I don't think that is his testimony.

Q Didn't you hear Mr. Tippens testify?

A That wasn't his testimony.

Q Do you deny that Mr. Tippens was sitting on the jury in the number twelve position when this happened?

A Why don't you read the record? I think the record is this, and I don't like to try to think I am psychic that I can go back to '62, but my recollection is he was sitting on the end in the twelfth position and sitting on the twelfth position here that he had not yet been accepted but he was in a series of twelve that were being interrogated to determine whether they were going to become part of the jury. That is my recollection.

End 29A
T 30 fol.

Q And hadn't he been passed or accepted by the government?

A I do not believe so.

Q Well, in any event--

A (Interposing) I could be in error, but I don't believe so.

Q He was sitting there one day and then the next day he was excused.

A I said that to the jury.

Q Is that correct?

A I said that to the jury. You are right, but I told you why because the conference in Judge Miller's court or his chambers.

MR. HOOKER: Would Your Honor indulge me just a moment?

THE COURT: All right.

BY MR. HOOKER:

Q Now, Mr. Hoffa, did you see Mr. Partin at any time after the trial of the Test Fleet case in Nashville?

A Do you mean after the 23rd?

Q Yes, sir.

A I don't think I was back in Nashville until I came back for Ewing King to the best of my recollection after that trip.

Q Did you see Mr. Partin in Washington, D. C. on

February 6, 1963?

A I may have. I know he said he visited Bufalino there. He may have dropped in and seen me. I have no recollection of it. I would not either confirm or deny. I don't know.

Q Did you see him in your office there and tell him that he was talking too much?

A You had a telephone conversation, that is where you got that out of.

Q No. I'm talking about in person.

A Not to my recollection. You are talking about the Washington office, February the 12th?

Q February the 6th, 1963.

A The sixth? I would not try to recall any conversation but I did tell Partin many times that he was talking too much for his own good and rounding up the members, trying to keep them separated rather than have a cohesive union, I told him that in Nashville when I had the big blow-up with him.

Q You said you did tell Partin many times that he was talking too much?

A I told him he was talking too much to his membership and dividing them, that is what I said. But I was not in Washington as to my recollection. It was when the blow-up came in Nashville and I told him to get his membership

back together and spend his time there running the local union and not galavanting all over the country and having trouble.

Q And that occurred in Nashville during the trial?

A This is my recollection.

Q Did you tell him that he was talking too much for his own good or for your own good?

A Don't you worry about my good. Let the trial take care of itself.

Q And you deny that you--, or do you deny that on February 6th in your office in Washington that you said to Partin that he was talking too much?

A Mr. Hooker, I'm aware of the Anderson name, Andy for short, that you had with your informer concerning Mr. Sheridan's conversations in the period between the time that we had our trial in Nashville and the time it came here because it just has been published by a reporter that is right in this room as to what you people did in regards to the question of Mr. Partin and yourselves and Mr. Sheridan in trying to frame me.

Q Well, will you answer the question?

A You give me the question.

Q Did you say to Mr. Partin in Washington in your office on February 6th, 1963 after this trial in Nashville had been concluded that he was talking too much?

A I told you I had no recollection of even meeting

Partin there and if I recall correctly, now that you refresh my memory, Partin did not testify from this stand as to this jury he met me. If I recall rightly he said he waited half a day to see Bufalino. And that he saw Bufalino, discussed his problem with him, and ultimately wound up over at Brad Williams' office in which Bergan, the big fellow who sat here, and discussed his problems with Ray Bergan. He never did say from this witness stand to my recollection that he ever met me or talked to me in Washington. I think the jury can recall that now. You just refreshed my memory.

Q Do you deny that you talked to him on February 6th, 1963 and told him that he was talking too much?

A I tell this jury and I tell you that I couldn't tell you who I talked to or what I said on February 6th of 1963 if my life depended on it, not move out of this chair, I couldn't tell you that. Unless, excuse me, unless I made a memorandum and I can refer to that memorandum in the file dealing with Local No. 5, I couldn't sit here and honestly tell you what I said to anybody on that date, anybody.

Q We want to limit it to February 6th; did you at any time after this trial in Nashville see Partin and tell him that he was talking too much?

A I don't think I--, I want to make a statement and observation, now that you keep refreshing my memory, I think Partin came to Nashville on three times between 1962 and

the end of 1963, and I think he started to testify here and was stopped, he came to see Jimmy Morrison, a congressman from his district, and simply dropped over to the International Union I believe to have lunch in the cafeteria.

And we discussed his local union problems and I think he sat on the couch in my office but I do not recall the total content of that discussion. Now that I think about it.

Q Well, I want to ask you again, do you deny that you told him that he was talking too much? That either he or somebody else was talking too much?

A I told you that I have no recollection of any conversation that far back with any person unless I made a memorandum as I have here to refer to, I just couldn't do it. I do not believe I talked to Partin whatsoever other than concerning his local union. That is my personal opinion. Why do you think that I knew he was an informer for you at that time?

Q But you don't deny it? You just don't remember, is that it?

MR. SILETS: Your Honor, that has been asked and answered four times.

THE COURT: Sustain the objection.

MR. HOOKER: If Your Honor please, we want to go further into the matter that Your Honor excluded. We would

like to discuss that matter with Your Honor in the absence of the jury before we conclude this cross examination. That is about the testimony of the lawyers.

THE COURT: Ladies and gentlemen, step out.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MARSHAL MANSFIELD: Let's have order in the court please.

End 30
30A fol.

MR. HOOKER: What I wanted to ask you, if your Honor please, was on the question of how often and to what extent Mr. Hoffa saw Mr. Partin. If he didn't hear Mr. Haggerty testify and I am not undertaking to read all of this. Just enough of it to get the matter before your Honor.

"I didn't actively participate in the selection of the jury at Nashville but I was present in Mr. Hoffa's suite in the living room of that suite when it was being discussed by other attorneys and Mr. Partin was present.

"Mr. Jake Kossman said, on Page--

THE COURT: (Interposing) I don't believe that would be a proper line of inquiry, Mr. Hooker.

MR. HOOKER: Just one other, your Honor. I saw him continually in the place where the International Teamsters keep what we considered was their office as well as our living quarters. He was very often in Mr. Hoffa's room. He was continually.

Was he in and about the hotel room that you have spoken about? Mr. Hoffa's room when certain jurors were being discharged only from that particular jury I would say generally, yes, and same all the way through with a number of others.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, before you act finally on that may I point out that this defendant put these

witnesses on the stand to testify in his behalf. He was here. He heard them.

THE COURT: We are not going into what all he might have heard somebody testify. Sustain the objection, gentlemen. Let's proceed.

MR. HOOKER: No further questions.

THE COURT: All right. Is there any further examination of the witness by any defense?

MR. BERKE: Yes, your Honor.

THE COURT: All right, have the jury return, please.

MR. NEAL: Your Honor, while the jury is coming in, after this witness leaves the stand, we want to recall Mr. Bloomenstiel to finish our cross examination of him. He was reserved by us.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had to-wit:)

THE COURT: All right, you may proceed.

MR. HOOKER: That concludes the cross examination, if your Honor please.

THE COURT: All right, sir.

THE WITNESS, MR. HOFFA: Mr. Hooker, may I apologize to you if I was too aggressive or too loud in my debate. It is my natural habit. If I offended you, I

apologize.

MR. HOOKER: You don't owe me any apologies. I think you talk about as loud as I do, Mr. Hoffa.

THE WITNESS, MR. HOFFA: Thank you.

REDIRECT EXAMINATION

BY MR. BERKE:

Q Mr. Hoffa, is that your normal and natural way of transacting your business? I mean, you are aggressive in your efforts of the Teamsters Union?

A In my business unfortunately if you are not aggressive with the individuals we deal with, we would have no business hours or work conditions. We constantly must be aggressive.

Q Mr. Hoffa, it has been inferred here that Mr. Dorfman carried all the insurance business for the Teamsters Union, is that true, sir?

A No, sir, I would say from maybe 15 per cent to 17 per cent of the entire International Union insurance is carried by Dorfman. No more.

Q And the other 83 per cent or 85 per cent, excuse me--

A (Interposing) When I say International, I'm talking about subordinate bodies as well.

Q All Teamster business?

A Pension funds, welfare funds, insurance funds,

family protection funds. All of them.

Q So you estimate 15 per cent to 20 per cent is all the business that Mr. Dorfman handles?

A I would say that is a fair estimate, yes.

Q Do other agencies handle the other 85 per cent or 80 per cent of your business?

A Prudential Life Insurance Company. Well, almost every major insurance company in America handles various trust funds that are approved by the Treasury Department for the 800 and some-odd subordinate bodies, yes. We do business with almost all of them.

End Tk 30A
31 fls.

MR. BERKE: I believe that's all, unless you want to make any statement yourself.

THE COURT: Now, let's --

MR. BERKE: (Interposing) That's all we have, if your Honor please.

THE COURT: All right.

MR. BERKE: Come on down.

(Witness excused.)

MR. NEAL: We want to call Mr. Bloomenstiel for further cross examination.

MR. HAGGERTY: We object to that.

THE COURT: The defense call the next witness.

MR. HAGGERTY: Mr. Bufalino, take the stand, please.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. BUFALINO: I do, sir.

WILLIAM EUGENE BUFALINO,

a witness called at the instance of the Defendant Hoffa, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name, please?

A My name is William Eugene Bufalino.

Q Where do you reside, Mr. Bufalino?

A At 79 Webber Place, Grosse Pointe Shores, Michigan.

Q How old a man are you?

A I am forty-five, I will be forty-six in April.

Q Now, Mr. Bufalino, do you live in Webber Place with your family?

A Yes, sir, I do with my wife and five children.

Q Now, are you a professional man, Mr. Bufalino?

A Yes, I am an attorney with offices at Suite 500, Bennett Building, Wilkesboro, Pennsylvania.

Q You are admitted to practice law in what state?

A I am admitted to practice law in the Commonwealth of Pennsylvania, the State of Pennsylvania, admitted to practice law in the federal court in the Middle District for the State of Pennsylvania, in the Sixth Circuit, the Court of Appeals, and in the Supreme Court of the United States, as well as the Department of Naturalization and Immigration.

Q Now, in addition to you being an attorney and engaging in the practice of law, are you also an official of a union?

A Yes, I am.

Q What union?

A I am president of Teamsters Local 985 in Detroit, Michigan.

Q And how long have you been an officer of that union, Mr. Bufalino?

A I was the business manager of Teamsters Local 989 in 1948 and '49. I became president of this local in 1950, I believe it was November 30th of 1950, I have been the president of that local union ever since.

Q Now, how long have you been admitted to practice law?

A I have been admitted to practice law since the 20th day of August, 1942.

Q Now, in addition are you serving in any capacity with the International Union of Teamsters?

A Yes, I am, I am special counsel for the Teamsters International Union.

Q And how long have you held that position?

A For the last three or four years, I believe since 1960 or '61, I believe.

Q Now, Mr. Bufalino, as to your background on graduation from law school, did you serve in the Army of the United States?

A Yes, I did. At about the age of 23 I became an attorney, 23 or 24. I enlisted in the military service of the United States. I held several enlisted ranks including -- or non-commissioned ranks, including the rank of First Sergeant and Master Sergeant, stationed at Brookley Field --

I had my basic training at Biloxi, Mississippi, and I was stationed with the Fifth Station Complement at Brookley Field, Mobile, Alabama, for approximately two years, after which time I went into Officer Candidate School.

I became an officer and worked as an investigator with the -- much of my enlisted work was doing investigating with the trial judge advocate's office in the legal office and then I became summary court officer as a commissioned officer, I was a summary court officer, trial judge advocate for the general and special courts.

MR. HOOKER: If your Honor please, this is an impressive record, but this man is not a defendant in the case.

THE COURT: Let's move along. I don't know --

MR. HOOKER: (Interposing) I don't see why we should go through all of this. Let's move along to something material.

BY MR. HAGGERTY:

Q Did you, based upon your opportunity to learn, acquire the knowledge as to what a bad conduct discharge is?

A Yes, I did.

MR. HOOKER: We object to that.

MR. HAGGERTY: I think we are entitled to have an explanation from one who knows and is an expert.

THE COURT: Sustain the objection.

BY MR. HAGGERTY:

Q Now, prior to October, 1962, did you know Partin?

A I did not know Edward Partin prior to October of '62.

Q Did you meet him in October '62?

A Yes, I believe it was in October that I met him, yes.

Q And under what circumstances and where did you meet him?

A I met him in my room at the Andrew Jackson Hotel in Nashville, Tennessee, where he came up and introduced himself, told me he was Ed Partin from Baton Rouge, Louisiana, he might have mentioned the local union number, and I introduced myself, telling him that I was the president of Teamsters Local 985. He seemed to know who I was.

Q Now, do you recall the day of the month in October of 1962 that Mr. Hoffa came to Nashville?

A Yes, I do.

Q What day was it, Mr. Bufalino?

A I would like to place it in relation to the date that I went there. I had been there several weeks and possibly several months doing investigative work and in preparation for the trial that was scheduled for October, and I went there on a Friday, I believe on the 19th of October.

Mr. Hoffa came on a Sunday, the following Sunday,

and at that time when I went there I had made reservations for the suite that we thereafter occupied, in other words, the hotel held those rooms for us, which were 736, 740, and 742. Mr. Hoffa stayed in 736 and 40 was between us, 38 and 40 is the combined room, and I was in 742.

Q Now, prior to Mr. Hoffa coming to Nashville, did you do anything about setting up an office of the International?

A Yes, I did.

Q What did you do, Mr. Bufalino?

A I talked to Mr. Womble, who was the manager. He appeared here before this Court and jury, and I talked to Mr. Womble with reference to setting up an office for the attorneys and also one for the International Union, so next to 742 in that wing of the hotel was Room 744, which was used for the girls that we hired there, I believe there were some Kelly girls that we hired to do the typing for the attorneys and we set up -- we set that up as an office and also set up Room 744 as the office which would be the field office for the International Union, which would be primarily occupied by Mr. Steinberg and Gayle Wesmey.

At that time we got all the equipment, cabinets, files, typewriters, and whatever was necessary to set up the field office and also an office which was the legal office for the assistance of the attorneys working in the case.

Q What is your best recollection of the date in relation to October 21, 1962, that you met Ed Partin?

A That I met Ed Partin?

Q Yes. Can you fix that?

A I would say it was on the following Monday after the 19th.

Q Now, I have here a series of pictures that I will ask you to examine. Without saying what they are at this time, just examine them.

A Yes, I have examined them.

Q Are you familiar with those pictures?

A I certainly am.

Q Do those pictures truly represent the objects pictured?

A They certainly -- yes, they do.

MR. HAGGERTY: Will you have them marked, please?

MR. DALE: Do you want them marked separately?

MR. HAGGERTY: Please.

MR. DALE: No certain way?

MR. HOOKER: Then may we see them, Mr. Haggerty?

THE WITNESS: In that order.

MR. DALE: All right. We will start with 221, your Honor.

MR. HAGGERTY: They are in a series, if you can keep them that way.

MR. DALE: I will keep them that way. Through 228.

THE COURT: Through 228?

MR. DALE: Yes, your Honor.

(The photographs referred to above were marked Defendant Hoff's Exhibits No. 221 through 228, inclusive, for identification only.)

End 31
32 fls

Q Does the photograph marked for identification as Exhibit No. 221 truly identify the object pictured?

A Yes, it does.

Q Are you familiar with the object pictured?

A I am.

Q What is the object pictured?

A It is a picture, this picture, it is a photograph of three doors and in the hallway on the seventh floor of the Andrew Jackson Hotel, Nashville, Tennessee, and it displays the numbers, 736, 740, 742. And those are the rooms that --, this is the outside of the rooms that were occupied by Mr. Bufalino and I. Correction. Mr. Hoffa and I.

MR. HAGGERTY: Offer in evidence Exhibit No. 221.

THE COURT: All right.

(The photograph previously marked for identification as Exhibit No. 221 was received in evidence.)

BY MR. HAGGERTY:

Q Now, will you take the next photograph, I think it is No. 222, will you look on the back to make certain.

A Exhibit No. 222 is a photograph of the room No. 740 and that is with the door open and it shows the entrance-way to that suite. And this is the entrance to the suite going into the left, you would be going into Room 742 which would be my room. And as you go forward you would be going into the suite part and you go all the way in you would be

going all the way into Mr. Hoffa's room which would be around to 736.

Q If you will, return those, please. I hand you the Exhibit No. 227, or rather No. 223 and No. 227, and ask you to examine them and if you can identify the object pictured in the photograph.

A Yes. Exhibit No. 223 is a photograph of that same hallway but closer to the suite part of the room and this shows the table, large table, circular table, with chairs around it. That is Exhibit No. 223.

And Exhibit No. 227 is a photograph of the suite taken from the inner part of the suite aimed at that same table, that circular table.

Q Now, will you on those two photographs if you have a pen just draw an arrow pointing to that table.

A I have a marking pencil on my desk there that I think might be of better use.

Q Well, would that be better?

A I have it here.

Q All right.

A Do you want an arrow to the table?

Q Pointing to the table. Not on the table.

A Well, this one here. Right here.

MR. HAGGERTY: At this time, may it please the Court, I offer in evidence these two exhibits. I say No. 223

and No. 227.

THE COURT: All right. Allow them to be introduced.

(The photograph previously marked Government's Exhibit No. 223 for identification was received in evidence.)

(The photograph previously marked Government's Exhibit No. 227 for identification was received in evidence.)

BY MR. HAGGERTY:

Q Now, I hand you Exhibits No. 226 and No. 228 so marked for identification and ask you to examine them and tell us if you can identify the objects photographed therein?

A Exhibit No. 226 is a photograph from the inner part of the suite looking in the direction of the table.

And Exhibit No. 228 is a photograph taken from my room, Room No. 742, with the view toward looking into this suite portion of it.

Q Looking into what would be the drawing room or the living room?

A Into the living room portion of the suite.

MR. HAGGERTY: All right. At this time I offer these two exhibits in evidence.

THE COURT: Very well. Allow them to be introduced.

(The photograph previously marked Government's Exhibit No. 226 for identification was received in evidence.)

(The photograph previously marked Government's Exhibit No. 228 for identification was received in evidence.)

BY MR. HAGGERTY:

Q Now, I show you Exhibit No. 225 and No. 224 and ask you if you can identify the objects therein photographed?

A Yes, Exhibit No. 225 is the inside of Room No. 742. This is the room that I occupied from, I would say, the 19th day of October, 1962, to and including the 23rd day of December, 1962, with the exceptions of the times that I went back to Detroit.

Q And is that the interior of the bedroom which in the photograph Exhibit No. 228 pictures taken from the doorway and shows the living room of the suite proper?

A That is exactly right. That corner of that room and this Exhibit No. 225 are the same, taken from the same room.

Q All right. Now, as to the next picture, please.

A Then Exhibit No. 224 is a photograph of the interior of the Room No. 736, which was the bedroom occupied by Mr. Hoffa which is a part of that suite.

MR. HAGGERTY: I offer in evidence, may it please the Court, these two exhibits.

THE COURT: Allow them to be entered.

(The photograph previously marked Exhibit No. 225 for identification was received in evidence.)

(The photograph previously marked Exhibit No. 224 for identification was received in evidence.)

BY MR. HAGGERTY:

Q Now, you have indicated on several exhibits here by arrows the table, a table, white-topped table, with chairs around it, I am referring to the Exhibit No. 223. Did you on occasions during the months of October, November, or December, now, I trust you have got good eyesight?

A I see just what you have, yes.

Q Do you see that?

A Yes.

Q October, November, December, see Mr. Partin sitting at that table?

A I did.

Q Did you see him there --, did you see him there at any particular time in the night or day?

A I would see him there in the latter part of the afternoons, in the evenings.

Q Now, may I show these pictures for examination of the jury, your Honor?

THE COURT: Yes, sir.

THE WITNESS: There is also a missing table there.

THE COURT: I assume also, Mr. Haggerty, you wish to introduce Exhibit No. 221 and No. 222?

MR. HAGGERTY: Yes, sir.

(The photograph previously marked Exhibit No. 221 for identification was received in evidence.)

(The photograph previously marked Exhibit No. 222 for identification was received in evidence.)

THE WITNESS: The first exhibit I entered in there there is a missing table.

BY MR. HAGGERTY:

Q Now, Mr. Bufalino, do you recall Sunday, October 21, Monday, October 22, Tuesday, October 23, as to the routine that was adopted by Mr. Hoffa?

A Yes, I do recall that.

Q Now, will you explain to us what routine he adopted and followed on those days?

A I had been there as I stated quite some time prior to the 19th of October doing quite a bit of investigative work. I had extensive files and when I went in there on the 19th and set up the offices, then the 21st, Sunday the 21st, and the 22nd, and the 23rd, the first two or three days, particularly the first two or three days, it was my duty to acquaint the attorneys and Mr. Hoffa with all of the information that I had compiled.

Information that had come from various sources that we had requested that they come in. It would be sent in from Washington and other parts of the United States. And we were occupied with the preparation of the initial stages

of the trial. Sunday, Monday, Tuesday, and possibly Wednesday I would say.

Q All right, let's start on Sunday, do you recall that Sunday afternoon?

A Yes, I do.

Q Do you recall who Mr. Hoffa was engaged in a conference with?

A With the attorneys.

Q Yes.

A With the attorneys in the case.

Q And do you recall that the conference was interrupted for dinner or for meals?

A We would go --, had dinner and then back into full session that went into the long hours of the night. This didn't only happen that one night. It happened several, many, many nights then as it does here.

Q Well, I'm only talking, Mr. Bufalino, about the first three days.

A Yes.

Q Now, do you recall on Monday whether or not we started to court?

A We did go to court Monday morning.

Q And do you recall after court where we went and where Mr. Hoffa went from court?

A I believe we went to lunch. Our normal routine

would have been to go over to Corsini's Restaurant for lunch and back to the hotel to go to work.

nd 32
3 fls

Q When you say "go to work on this Monday," who went to work?

A Mr. Haggerty--

Q (Interposing) Well, I don't mean the lawyers. Did Mr. Hoffa go to work?

A Mr. Hoffa went to work with the lawyers.

Q Did the conference continue throughout the afternoon?

A It did.

Q Until mealtime?

A Until mealtime and during the mealtime and after the mealtime.

Q And after the mealtime did we return to Mr. Hoffa's suite?

A Yes, we did.

Q And do you recall if we worked for a short time or a long time?

A An extended period of time, past midnight. I would believe I would say long past midnight.

Q And did that same routine continue on the following day, the 23rd?

A It did. And to let you know something, Mr. Haggerty, our meetings did not end when you left, we continued on talking about our matters there with reference to the preparation of the trial of the case because I stayed

there with Mr. Hoffa.

Q You made an exception because of my age?

A No, because I was staying there.

MR. HOOKER: I object to that on Mr. Haggerty's behalf.

MR. HAGGERTY: Thank you, Mr. Hooker.

BY MR. HAGGERTY:

Q Now, did Mr. Partin, during the months of October, November and part of December, did you see him in Mr. Hoffa's suite on occasion?

A Yes, I did, and in my suite, it's the same suite.

Q In your room?

A In my room, it's the same suite.

Q Now, do you recall whether you saw Mr. Partin there during the time that Mr. Hoffa was discussing matters with his attorneys after the first three days?

A Yes, I do recall that.

Q And where did he sit in the suite?

A He occupied himself at the circular table where I marked off the arrow, there would be a deck of cards there and he would fool around with a deck of cards and toying around and he would busy himself with getting somebody an ashtray or ask somebody if they wanted some cigarettes or move a chair from here or there or if Mr. Kossman's brief case was in the way he would move it out of the way, he just

kept himself occupied.

Q And did he stay there for a considerable period or considerable duration?

A Yes, he did.

Q Did this occur often?

A Yes.

Q Could you approximate the number of times?

A I wouldn't want to guess but I would say 15 to 25, 30 times.

Q All right. Do you recall if Mr. Partin on occasion went to court?

A Yes, I do recall that.

Q You have personal knowledge of that?

A Yes, I do.

Q Did he go on a few or many instances?

A I believe I saw him there on several instances, I wouldn't say a few, I wouldn't say many, I would say several instances.

Q Now, do you recall when Mr. Partin became a watchman outside of the door of Mr. Hoffa's suite which was closed?

A Yes, he was a self-appointed watchman, so far as I was concerned.

Q Did you appoint him?

A I did not.

Q Do you know why he was stationed out there?

A I know now why he was stationed there.

Q You know now?

A Yes.

MR. NEAL: Well, your Honor, we move that be stricken. This man couldn't testify as to who appointed him. The Defendant Hoffa said either he or Steinberg or somebody else appointed him.

THE COURT: Let's proceed.

MR. NEAL: We are asking him to restrict his testimony to what he knows. If he didn't, that would be it.

THE WITNESS: That was my suite.

THE COURT: Sustain the objection to that question and answer.

BY MR. HAGGERTY:

Q Now, did you have conversations with Mr. Partin?

A I did.

Q Did you have any conversations with Mr. Partin at the instance of someone else, at the request of someone else?

A I had conversations with Mr. Partin at the request of Mr. Hoffa.

Q And how many such conversations did you have with him?

A With Mr. Partin?

Q Yes, sir.

A Oh, I would say about eight or ten.

Q What were those discussions?

MR. NEAL: Your Honor, we object to that as being irrelevant.

MR. HAGGERTY: Well, I think it may be very--

MR. NEAL: (Interposing) The conversations he had with Mr. Partin.

THE COURT: Well, overruled.

A Mr. Partin was having difficulties, he had explained that he had difficulties with the local union in Baton Rouge, Local Union No. 5, he had explained a series of difficulties that he had with the--run-ins that he had with the law. He explained--

MR. NEAL: (Interposing) Your Honor, we are going back over this thing again. It can't be relevant.

MR. HAGGERTY: The witness is certainly entitled to testify.

MR. NEAL: It certainly--

MR. HAGGERTY: (Interposing) It's right in the crucial period when Partin was there.

MR. NEAL: Mr. Haggerty, may I make my objection? I am entitled to do that, the Judge can then rule upon it. I will abide by it.

Your Honor, this has been gone into several times,

it certainly--it's collateral, irrelevant and it certainly is repetitious to us all.

THE COURT: Overrule the objection.

MR. HAGGERTY: It's not collateral, it's corroborative. What was your Honor's ruling?

THE COURT: I said I overruled the objection at this point.

BY MR. HAGGERTY:

Q All right. You have told us two things that he talked about.

A He explained that there were charges filed by certain individuals in the local union opposing him for mismanagement of union funds and he explained that there was a circular being distributed by--

MR. HOOKER: (Interposing) We object to that. Just a moment, Mr. Bufalino.

THE COURT: Sustain the objection.

THE WITNESS: In--

THE COURT: (Interposing) Just a moment.

THE WITNESS: I will skip that. He explained that the indictment that he had about six months prior to that was caused by a person who was running the United States Senate, Saint somebody, Senate or Congress or something, and he had explained that he appeared on the television taking credit for the indictment and that the same thing was going

happen to him as happened to Cline where he had explained to me--

MR. NEAL: (Interposing) Your Honor, we object to this witness just continuing this collateral stuff.

MR. HAGGERTY: It isn't collateral, this is part of his general--

MR. NEAL: (Interposing) We fail to see that.

MR. HAGGERTY: What he told this man is corroboration of Mr. Hoffa, Mr. Hoffa says he turned him over to this man, called this man in first and then turned--

THE COURT: (Interposing) Sustain the objection to the last statement of the witness. Proceed.

MR. HAGGERTY: Is that the portion in reference to Cline that is stricken?

THE COURT: Proceed.

BY MR. HAGGERTY:

Q Well, did he state anything other than that, Mr. Bufalino?

A He explained that he had a series of run-ins with the law.

End Tk 33
33A fls.

MR. NEAL: Now, Your Honor, he is going through the same thing.

BY MR. HAGGERTY:

Q You have told us that--

THE COURT: (Interposing) You have been over that.

BY MR. HAGGERTY:

Q Does that about exhaust the conversations, generally speaking?

A Just generally speaking.

Q Now, in the month of November, 1962, did Mr. Partin ever tell you--

A (Interposing) What month was that?

Q In the month of November, 1962, did Mr. Partin tell you or make any reference to the jury that was impaneled in the Nashville case?

A Yes, he did.

Q And what did he say to you?

A It was on two different occasions. And in the one instance he mentioned to me that he went to LSU, Louisiana State University, that he was--, attended LSU--, that he knew a Billy Cannon and a Jimmy Taylor and he knew this Billy Wade, knew football players, and that he thought that it might be suggested and he had suggested that maybe they could come in and shake hands with Mr. Hoffa or come into the trial and at that time I told him it was unnecessary to have anything

like that, our case was based strictly on facts and on the law and I told him that, or at that time he said that he was playing football with them.

I said, "Why didn't you continue to play football?"

He said he injured his back and at that time he said he could get them to do just about anything that he wanted them to do because they carried a book in his local union, that he gave them a free union book without paying any initiation fee and that they would do just about anything that he wanted them to do and I explained to him, "If that is the case the next time you run into them you do me one specific favor, you ask them for a photograph, an autographed photograph, for my son who collects them. That is all I want you to do with them."

And in the second instance--

Q (Interposing) All right, sir.

A Another instance.

Q Was that also in November of '62?

A I wouldn't place it--, I would say November, the latter part of November or the early part of December.

MR. HOOKER: Just a moment, Mr. Bufalino. May it please Your Honor, just in the interest of time we submit that all of this is immaterial and irrelevant to this inquiry. The question is what statements, if any, were made by the defendant, not some statements already about various subjects

that happened to have been made by the witness. He is not asked about that.

THE COURT: Well, proceed.

A In the second instance one of the times there he mentioned to me that he knew--, he had told me that he had a-- I don't know if it was dishonorable or bad conduct discharge, I don't know which one he told me, and earlier in our discussion, but at that particular time he had explained--

MR. NEAL: (Interposing) Now, Your Honor, how could this, how could this be proper?

THE COURT: Yes, I don't see the relevancy.

BY MR. HAGGERTY:

Q Let's just get to the conversation you had with him in reference to something pertaining to the jury.

A He told me that he knew an officer in the military service that knows somebody on the jury and he was throwing out a feeler.

Q Well, don't go into your own opinion, just tell me what he said.

A He then stated to the effect that, "Maybe I can get this officer to get himself a vacation and come and stay with this particular juror."

And at this time I told him that I wanted no part of it, I wanted--, I had no desire nor any inclination to do anything like it and I suggested to him that he should dispell

the thought from his mind.

Q Did he ever mention the name of the juror?

A I think he said he was a banker.

Q But did he ever identify him by name?

A No, I wouldn't remember the name if he did, I think he said, "The banker".

Q All right. Now, do you recall an instance when the defense was being put on in the Nashville trial that quite a large group of rank and file members came down from Detroit?

A Yes, I do recall that.

Q Do you recall that at that time you and other attorneys questioned those witnesses prior to their taking the stand?

A Yes, I recall that.

Q Were you one of the attorneys who questioned and interviewed them?

A Yes, I did the interviewing and I did quite a bit of the interrogation.

Q Now, during that time was there some writings, writing of what the witnesses had said?

A Yes, there were.

Q And was a record made of those?

A Yes, there were.

Q Now, during the time that that information was being gathered and the time that you interviewed these

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34 ol.

witnesses, was Mr. Partin present?

A He was present.

Q And what if anything did he do?

A Mr. Partin was present in my room, Room No. 742 which is one of the exhibits. Particularly the one clearly in mind, I was interrogating a Lawrence or Larry Sammut, (Spelling) S-a-m-m-u-t, and at that time Mr. Partin was present. And this is the first time that I believe that I had ever met the witness himself, and I had asked him his name, address, phone number. Then other questions relating to the nature of his work.

Mr. Partin was there throughout the entire or throughout a great portion of my interrogation of this particular witness and as well as others.

And once I would jot down notes, I would then call in a girl. Dictate a memorandum. Questions and answers. In other words, the type of a question that I asked. And the type of an answer he gave me. I would ask the girl to type it up. And it was Mr. Partin who, looking in retrospect, injected himself into these things, picking up one page as the girl would finish typing the one page, he would get it and the second one he would get it, and the third or fourth he would get it.

And then assisted in assembling the four or five different sheets that I would have and he assisted in stapeling them. As we typed the statements as to the various truck

drivers throughout the room, he would take them to their individual rooms on the same floor, distributing the statements to the individual truck drivers.

Q Now, were you cognizant on the following day or days that particularly as to the witness Sammut that certain information had been transmitted to the government?

A Yes, I knew that.

Q Now, how did you know it?

A On December 5th or on December 5th, 1962 the first one of the truck drivers was Lawrence Sammut and I started to interrogate Lawrence Sammut and once I got into the preliminary questions, I skipped over a series of questions and went over and stated in effect, now, Mr. Witness, I take you back to November, 1953 and with thatI was interrupted by an objection from Mr. Neal.

Mr. Neal said in effect I object if Your Honor please. They are going into an entirely different area. An area that has nothing to do with this.

And I turned to Mr. Neal and I said to him, now, how would you know? What area I'm going into if I haven't even asked the question? Have you been listening to our conversations?

MR. HOOKER: We think this is utterly immaterial.

THE WITNESS: And Mr. Neal said, I'm psychic. And at that time I said, did you say psychic or psycho and I

have the transcript of that proceedings here.

BY MR. HAGGERTY:

Q Have you any other instances where information obtained by this man Partin from being around or about the lawyers that was transmitted to the representatives of the government?

A Well, yes. The actual questions that I'm talking about was testified to by Mr. Sheridan that he received information of that nature from Mr. Partin.

MR. NEAL: Now, Your Honor, Your Honor wouldn't let us go into what these lawyers testified about the closeness of Partin and Hoffa out of the presence of the jury and yet he goes into what is testified in the presence of the jury.

THE COURT: Are you stating an objection?

MR. NEAL: I am objecting and I move that that be stricken.

THE COURT: Sustain the objection.

MR. NEAL: I think what is fair for one side is fair for the other.

THE COURT: Sustain the objection. Strike the question and answer.

BY MR. HAGGERTY:

Q Now, do you recall that in the month of December, 1962, sometime before the case came to a termination in

Nashville, Tennessee that you were present at a conversation between Mr.Hoffa and Mr. Partin in reference to Mr. Partin's operation of his union?

A I do recall that.

Q What was said by Mr. Hoffa to Mr. Partin within your hearing and in your presence?

A It was in my presence. There was a discussion with reference to the status of that local union, local union No. 5. Mr. Hoffa made it clear and in no uncertain terms told Mr. Partin--

Q (Interposing) What did he say? Can you remember the language that he used?

A Yes.

Q Well, try to employ the language that was used by Mr. Hoffa at the time.

A Mr. Hoffa told Mr. Partin--

MR. NEAL: (Interposing) Just a moment, Your Honor, Mr. Bufalino sits in here all during the trial. He listens to what has been said, what Hoffa says and then he gets up the so-called--

MR. SCHIFFER: (Interposing) Your Honor, that is the kind of statement that should be made without the presence of the jury.

MR. HAGGERTY: Just a moment, Your Honor.

MR. NEAL: So-called corroborative.

MR. HAGGERTY: (Interposing) I have stated Mr. Neal has no right to argue this when it was agreed at the beginning of the trial that Mr. Bufalino would be a witness and he had a right to stay here as Mr. Durkin did.

THE COURT: All right, proceed.

MR. NEAL: Well, I'm objecting to these self-serving statements that come up here.

MR. HAGGERTY: Nothing self-serving about it.

THE COURT: Proceed.

THE WITNESS: The statements I'm making is under oath and I'm responsible.

THE COURT: Proceed, sir. You are an attorney and you know better than to volunteer. Respond to the question.

THE WITNESS: Mr. Hoffa told Mr. Partin that he should stop running around chasing around all over the country with women, squandering the union funds, that he has had quite a bit of correspondence from members complaining about the management and mis-management of the union.

And he told him to settle down and fly right and if he didn't straighten that local union out he was going to straighten it out by putting it into receivership or trusteeship, I don't recall what he said.

And he said you get on it and you take care of those members. Those members put you where you are at and those members are going to take you out of there unless you

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k 34A fol.

service those men. Get out on the street and do the work you have been elected to do.

BY MR. HAGGERTY:

Q Now, will you state whether or not Mr. Partin made a reply or what effect you saw in Mr. Partin with your own senses?

A Mr. Partin just stormed out of the room.

Q Now, subsequent to this exchange between Mr. Hoffa and Mr. Partin, did you have a conversation with Mr. Partin when he asked your help?

A Yes, I did.

Q What did Mr. Partin say to you?

A He told me that he wanted to go--wanted me to go down to Baton Rouge, Louisiana, and meet and assist him in the trials that he had going on at that time. And I told him at that time that I couldn't do it right that week, but right after January 1st if he got in touch with me, I would be willing to oblige and glad to oblige and I would go down and do what I could.

Q Now, getting back to the conversation between Mr. Hoffa wherein Mr. Partin stormed out of the room, could you fix to the best of your recollection the date of that?

A I would say about a week or ten days--from the 12th to the 15th of December, 1962.

Q That is your best recollection?

A I would say about ten days, 10 or 12 days before it ended. I would say about the 12th to the 15th of December.

Q Now, did you have--

A (Interposing) It was on a--

Q (Interposing) Did you have any conversations with any--

A (Interposing) It was on a--

Q (Interposing) With Mr. Partin after he requested you to come to Baton Rouge and offer him and give him assistance?

A Yes. I believe he called me on the phone and I went there.

Q Just a moment. Where were you when you received the telephone call, Mr. Bufalino?

A I believe I was in Detroit or Washington. I believe Detroit.

Q And do you know where Mr. Partin was when he called you?

A I wouldn't know that. I would believe that he was in Baton Rouge, Louisiana.

Q Well, you don't know, is your answer?

A No.

Q All right. Now, what did he say to you at that time?

A We made an appointment. He asked me to come down to Baton Rouge, Louisiana, and I told him that I would go as far as New Orleans, and meet with him in New Orleans because there would probably have to be connections, airplane

connections and so forth. And I told him that I would meet him and I gave him my flight schedule. Told him that I would meet him, that I was arriving on the night of the 7th of January, 1963, around 7:30 or quarter to 8.

Q Now, did you accordingly go to New Orleans?

A Yes, I did.

Q And then after you arrived in New Orleans, you say you arrived there on the night in your prior answer, the night of January the 7th?

A That's right.

Q When in relation to January 7 did you first see Mr. Partin?

MR. HOOKER: We object to that as immaterial.

THE COURT: Well, I am unable to determine. Let's proceed.

THE WITNESS: At night that he was supposed to meet me, he was not at the airport. And I had him paged. And a tall, thin individual about 10 or 15 minutes later after the page, I stayed near the desk. I was supposed to meet him near the airline desk.

THE COURT: This does appear to be immaterial. Sustain the objection.

MR. HAGGERTY: Well, that is not material.

THE WITNESS: That is material.

THE COURT: Well, now, Mr. Bufalino--

MR. NEAL: (Interposing) Your Honor, Mr. Bufalino--

THE COURT: (Interposing) Are you acting as an attorney now or witness?

THE WITNESS: No, your Honor, I am a witness.

THE COURT: All right.

BY MR. HAGGERTY:

Q Well, what hotel did you go to when in New Orleans?

A I went to the Roosevelt Hotel.

Q And do you recall when in relation to your going to the Roosevelt Hotel that you first saw Mr. Partin?

A I believe I saw him the following morning on the 8th.

Q In addition to Mr. Partin, was there anyone else present when you saw him?

A I believe I saw him and shortly thereafter I met with his attorney, he and his attorney, Ossie Brown.

End Tk 34A
Tk 35 fls.

Q Was there a conversation had at this time?

A Yes, there was.

MR. HOOKER: Object to that.

BY MR. HAGGERTY:

Q What was the subject matter of the conversation?

A We talked in my room with reference to the International constitution and particularly about withdrawal card and the basis for the one indictment on forgery.

MR. HOOKER: Now, if your Honor please, are we going to try this case? We submit that it's irrelevant and immaterial.

MR. HAGGERTY: I say it is entirely relevant.

MR. HOOKER: Collateral matter.

MR. HAGGERTY: It's shortly after the period.

THE COURT: Proceed.

MR. HAGGERTY: It's associated back to the dates of December.

BY MR. HAGGERTY:

Q Now, what else was talked about, who was his attorney, by the way?

A Ossie (spelling) O-s-s-i-e Brown. And shortly after that we had a brief discussion on that and Mr. Brown left, he had another appointment and he left and we continued our conversation. We had lunch that afternoon and then we continued our conversation.

End Tk

Q Now, did you have any discussion about appearing before a grand jury?

A Yes, there was a discussion.

MR. HOOKER: We object to that.

A There was a --

THE COURT: (Interposing) Overruled.

A There was a discussion that -- this is what Mr. Partin told me, that there was some kind of trouble or a fight on the picket line of the Louisiana Creamery the night before or two nights before or a short time before and that there was a grand jury and that he, Mr. Partin, had -- was in an automobile, he had nothing at all to do with this, as he told me.

MR. NEAL: Your Honor, Mr. Daniels deny he was acquainted with what we are going into?

MR. HAGGERTY: Just a minute. It leads right up to something else, it leads --

THE COURT: (Interposing) Are you talking about the grand jury in Nashville or grand jury in Louisiana?

MR. HAGGERTY: No, a grand jury in the State of Louisiana at Baton Rouge, a state grand jury where he discussed the Fifth Amendment. I can't make it any plainer, which he attributes to Mr. Bufalino's advising him.

THE COURT: I believe I will sustain that objection if you are talking -- I thought you were talking about the Nashville grand jury, sir.

MR. HAGGERTY: No, no, I am not talking about a Nashville grand jury.

THE COURT: Sustained.

MR. NEAL: How far afield are we going into this thing?

BY MR. HAGGERTY:

Q Was there any discussion with Mr. Partin at the Roosevelt Hotel in New Orleans in reference to the Fifth Amendment?

A Yes, there was.

MR. HOOKER: We object to that.

MR. HAGGERTY: I am certainly entitled to show that, he said Mr. Bufalino advised him.

THE COURT: Well, is this relating to the Nashville grand jury I will allow you to ask him, but I understood you to say it's relating to New Orleans, I mean to Baton Rouge.

MR. HAGGERTY: It is relating to both grand juries.

THE COURT: Well, if it relates to the Nashville case, I will allow you to ask the question, but not with reference to --

MR. HAGGERTY: (Interposing) May we suspend at this time, your Honor?

THE COURT: No, sir, let's proceed.

MR. HAGGERTY: Well, how late are we going to run?

THE COURT: Let's proceed and see how much longer.

A Yes, there was a discussion about the Fifth Amendment.

Q And was it discussed in reference to possibly his being a possible witness in the Nashville case?

A We did not talk, not talk about the Nashville case at that time.

MR. NEAL: There, your Honor.

A There was no discussion about the Nashville --

MR. NEAL: (Interposing) Counsel just said it contained both the Nashville and New Orleans case.

MR. HAGGERTY: I so understood.

THE COURT: Let's proceed to some other matter then.

BY MR. HAGGERTY:

Q Did he discuss with you other matters other than union matters, Mr. Partin, did he discuss with you in New Orleans matters other than union matters?

A He discussed union matters and the matters that occurred and he was asking me concerning whether or not he should testify and I told --

MR. NEAL: (Interposing) I --

MR. HAGGERTY: (Interposing) Just a moment, Mr. Bufalino.

MR. NEAL: I know Mr. Bufalino is awfully eager

to testify, your Honor, but he should wait until we make our objection.

MR. SCHIFFER: I wish the prosecutor would stop taking the attitude he does before the jury, your Honor, it's all calculated to try to prejudice the jury.

THE COURT: Let's proceed. I believe we are getting into irrelevant matters.

MR. BERKE: Let me call the Court's attention to this, if Mr. Partin testified that Mr. Bufalino gave him some advice about the Fifth Amendment somewhere then he would have a right to show that it was given on another matter, in other words.

THE COURT: Let's stay on this lawsuit, gentlemen. Let's talk about this lawsuit.

BY MR. HAGGERTY:

Q Leave from your mind the Fifth Amendment before some other grand jury, Mr. Bufalino. Did he discuss any other matters with you other than union matters?

A None that I recall.

Q All right. So your entire discussion with him involved for the purpose of materiality ruled by the Court, you just discussed union matters with him?

A I discussed union matters, all of his troubles with the law, and I believe the Court doesn't want me to talk about those.

Q Well, what about the law did you discuss with him?

A He told me --

MR. NEAL: (Interposing) We object.

MR. HOOKER: We object to it.

THE COURT: Well, we are going right back into the same area we are in, let's get down to this lawsuit.

MR. HAGGERTY: All right.

BY MR. HAGGERTY:

Q Now, you returned -- mark this one.

MR. DALE: 229, your Honor.

(The envelope and hotel registration referred to above were marked Defendant Hoffa's Exhibit No. 229 for identification only.)

BY MR. HAGGERTY:

Q There is handed to you two papers marked with the number for identification. Can you identify them without telling us the contents as to what they are?

A Yes. This Exhibit No. 229 is an envelope and a photo copy of a bill that purports to be the bill that was charged to me while I stayed at the Roosevelt Hotel from the 7th to the 10th of January, 1963.

Q On the occasion that you saw --

A (Interposing) Mr. Partin, yes.

Q Now, while you were in New Orleans, were you asked by Partin to go to Baton Rouge?

A Yes, I was.

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Q Now, it has been testified by Mr. Partin in this case that in February, 1963 he visited your office, he visited your office in Washington and that he had a talk with you and you gave him a printed or a typewritten card and told him to copy it. And that was the way to take the Fifth Amendment. And advised him to take it. Is that true?

A That is absolutely false.

Q Did you see him at your Washington office in February?

A I did not see him in my Washington office in February at all.

Q Now, on the occasion did you give him any advice to take the Fifth Amendment?

A On that occasion?

Q Yes.

A That is one occasion that did not exist. It couldn't exist and I never--, I had not given him any such advice.

Q Now, while you were in New Orleans was there any conversation pertaining to Cuba?

A Yes, there was.

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

MR. HAGGERTY: Well, I submit, may it please the Court, here is a witness--

THE COURT: (Interposing) Well, let's proceed.

MR. HAGGERTY: (Interposing) That testified--

MR. HOOKER: (Interposing) Wait a minute, if Your Honor please, Your Honor has--

MR. HAGGERTY: (Interposing) He is not on trial.

MR. HOOKER: Your Honor excluded that a number of times.

MR. HAGGERTY: He is a witness.

THE COURT: Let's proceed, gentlemen. Sustain the objection.

MR.HOFFA: That is all.

MR. HAGGERTY: You may examine. Just one thing. I would like to introduce in evidence if you have had an opportunity to inspect his hotel bill.

MR. HOOKER: Yes, sir, I have looked at it. No objection.

MR. HAGGERTY: No objection. May it be received in evidence, Your Honor?

THE COURT: That is Exhibit No. 229, yes, sir.

(The hotel bill previcusly marked for identification as Exhibit No. 229 was received in evidence.)

THE COURT: Any further examination by any defendant? If not, you may cross examine.

MR. SILETS: Your Honor, I have one question. It is getting rather late.

THE COURT: All right.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Bufalino, Mr. Partin testified that on or about November 27, 1962 he had gone to Mr. Hoffa to obtain a jury list and Mr. Hoffa had requested thatyou get that list and you brought it back to Mr. Hoffa. Is that true?

A Never did happen.

MR. SILETS: O. K.

THE COURT: All right. Well, we will excuse the jury then at this time to be back at nine o'clock in the morning. Observe the usual instructions, ladies and gentlemen, about not talking about the case or allow anyone to talk with you about it. The jury may be excused.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence the following proceedings were had, to-wit:)

THE COURT: Now, then, gentlemen, when a person is both a lawyer and a witness in the case, what sort of instructions do you give him about not talking about his testimony?

MR. HOOKER: As far as I'm concerned, I don't care whether he talks or not, do you, Mr. Neal?

MR. NEAL: No.

MR. ALEXANDER: I think it is best not to give him

any instructions.

THE COURT: I doubt if the books have anything on that, so I won't give any instructions.

MR. SCHIFFER: Your Honor, may I tender a short memorandum, reply memorandum?

THE COURT: All right, sir.

MR. SCHIFFER: Tender a copy to the government.

MR. HOOKER: Thank you.

THE WITNESS: May I be excused?

THE COURT: Yes, sir.

(Witness temporarily excused.)

MR. SILETS: Your Honor, I would like to file with the Court a memorandum which is entitled, Defendants Reply Memorandum in support of their motion to require the government to disclose specifically and unequovically to the Court whether or not it has additional electronic recordings of any conversations involving the defendants.

MR. NEAL: I will reply to that reply to your reply to our reply.

MR. SILETS: Copy has been served on the government.

MR. HAGGERTY: We file a reply on the government's reply to a response that they are entitled to an immediate hearing on the alleged telephone interceptions.

MR. NEAL: I wonder if Your Honor has ever read

the book by Charles Dickens called "Bleak House"?

THE COURT: Yes, sir, I read that every night.

MR. NEAL: This reminds me of it. I hope the Court doesn't want to have a reply to their reply to our reply to reply to their motion, wherever we are now at that point. I do have a matter, though, Your Honor.

THE COURT: All right.

MR. NEAL: File an affidavit of Mr. Durkin with respect to the records and the continuing controversy with Mr. Silets.

I would call to the Court's attention that there has been a witness here subpoenaed I understand a man by the name of Pedescleaux. He has been here for approximately two weeks. My information is that he has never been paid. He is a Negro business agent of Local No. 5 in Baton Rouge.

MR. HOFFA: That is not true. We dismissed him.

MR. HAGGERTY: We dismissed him through that regard over the week end.

MR. NEAL: He hasn't been advised.

THE COURT: Let's arrange to pay him his per diem, gentlemen. Advise him and pay him his per diem for all the time he has been here.

MR. BERKE: If Your Honor please, in this particular case, the per diem was tendered to the man and he has refused it. I don't know whether that is a waiver or not. He wouldn't

take it. And I don't want to infer that we're not paying the witnesses, Your Honor. I mean, after all, Your Honor stating that in the record and it is incorrect.

THE COURT: Do I understand he is excused?

MR. BERKE: Yes, he is excused.

THE COURT: All right.

MR. BERKE: He was excused over the week end.

THE COURT: So advise him, whoever is aware of his presence here. And have him see Mr. Bufalino about arranging for payment of his per diem and mileage.

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MR. NEAL: Now, your Honor, I believe it was today that Attorney Silets on behalf of Defendant Dorfman caused subpoenas forthwith subpoenas, your Honor, to be issued to some 30 officials and special agents of the Federal Bureau of Investigation stationed throughout the country. One, two, three, four, five, six of these agents, including Mr. Clyde Tolson, who is seriously ill, and who is assistant to Mr. J. Edgar Hoover. They were subpoenaed, six of the agents were subpoenaed to bring with you any and all travel authorizations, including teletype authorizations for the assignment of any and all agents to Chattanooga, Tennessee, for investigative purposes relating to the trial of this case, and any reports prepared by any agents so assigned, arising from said assignment of any agent so assigned.

Now, that is a subpoena duces tecum issued to Mr. Clyde Tolson, assistant to Mr. J. Edgar Hoover, Washington, D. C.

Everett J. Ingram, special agent in charge, Federal Bureau of Investigation, Knoxville, Tennessee.

To the special agent in charge of the FBI Office, Louisville, Kentucky.

Special agent in charge of Nashville, Tennessee, Office of Federal Bureau of Investigation.

Special agent in charge of the Birmingham, Alabama, Federal Bureau of Investigation, Birmingham, Alabama.

And to Mr. Jay Hawkins, special agent here of Chattanooga, Tennessee.

In addition, your Honor, the following were subpoenaed to appear forthwith:

Three from Atlanta. William D. Andrews; Ben O. Keutzer; and Al Millard Dalton.

Charlotte, North Carolina. Roger Schultz; Edward Brennan; John Hennigar.

From Memphis, Tennessee. Josephy Canale; J. T. Beiderstedt.

From Knoxville, Tennessee. John Reilly; Theodore Sanders; Herbert Strom: Herbert Shrider; and Carl Barrett; and J. K. Murphree; John F. McGivney; John P. Slayden.

From Chattanooga, Tennessee, which is not of any consequence. William B. Hudson; William L. Sheets; John E. Cooke; Kenneth G. Pollard; George C. Welborn; William L. Cole; Charles A. Riley; and Donald Stout.

Your Honor, these are approximately 30 FBI agents, one of whom is sick or third man in charge of the FBI, Mr. Clyde Tolson, so I say is seriously ill.

These are 30 agents subpoenaed to appear forthwith in Chattanooga.

If these witnesses as they will do because they would not be contemptuous of the Court, appeared forthwith this would directly affect a substantial section of the

Federal Bureau of Investigation.

I think it is an abuse of the processes for the defendants to issue forthwith subpoenas for 30 agents of the FBI to appear forthwith when I've been trying to determine from these defendants when they are going to finish their case so we can start our rebuttal.

MR. SILETS: May I be heard, your Honor?

THE COURT: Yes, sir.

MR. NEAL: Just a moment. We are moving to quash the subpoenas, if your Honor thinks appropriate we will file a written motion to quash these subpoenas. At least until your Honor has determined what the relevancy of these would be and when it might be when your Honor would hear any of them if the Court determines they have some relevant testimony to give with respect to any material issues.

MR. SILETS: May it please the Court--

THE COURT: (Interposing) Yes, Mr. Silets.

MR. SILETS: I didn't manufacture these names. I didn't even know where most of these agents were stationed and I am pleased to discover from Mr. Neal that the government saw fit in its divine wisdom to bring all these agents to this city of Chattanooga, to watch the defendants at the outset of this case, because every name on that list appeared in the affidavit of special agent in charge, Mr. Ingram. And I subpoenaed them for use in our hearing on the motion

to declare a mistrial in this case on the grounds that we and all the defendants were under surveillance. Now, if the government--

THE COURT: (Interposing) Do you plan to take that up tonight?

MR. SILETS: Sir?

THE COURT: Isn't it obvious that we can't get to that, Mr. Silets?

End Tk 36A
Tk 37 fls.

MR. SILETS: Your Honor, if I put down a date for next week, a week from today, and this case is concluded on Thursday, the government would come in with the same straight face and say, "Well, Mr. Silets, your subpoenaes--

THE COURT: (Interposing) Why not handle it in this manner, why not stay any response to the subpoenaes at this time until we can see where we stand?

MR. SILETS: Your Honor, if the Court will only suggest and order the government to have those agents here at the time of that hearing that will suffice for that purpose.

I cannot say in a subpoena that they should be here Thursday or Friday or Monday because if I say Monday and we reach it on Friday then the government will say, "Well, it's just too bad, Mr. Silets, you didn't have that divine wisdom that Mr. Neal seems to have had in the last case in Nashville when he said he was psychic."

I am not psychic. I cannot tell when I am going to need those agents. I don't want them here--, I don't want to wreck the FBI--, I say this, if the Court will just direct the government to have those agents here at the outset of that hearing, that's all I want.

THE COURT: All right.

MR. SILETS: Now, the request as far as it being a subpoena duces tecum is not broad, it's highly circumscribed and very limited. I just want to see the travel authorization

because I know that if the government is honest and these agents are honest about their approach and appearance here that we will find that there are additional agents who were assigned who are not listed in that affidavit.

MR. NEAL: Your Honor, may I suggest this first, I understand that there are far more agents here than were listed in the affidavit. I understand that to be true. I don't think--

MR. SILETS: (Interposing) The only additional agents, Your Honor, are the special agents in charge of the respective divisional offices.

THE COURT: Well.

MR. NEAL: What I suggest is this, Your Honor, if Your Honor determines that these agents have relevant testimony to give with respect to material issue in any hearing and we can schedule it some way, of course, we will have them here. We will do everything in our power to have them here and we will try.

THE COURT: That's what we should do. Let's stay at this time until further notice of the court and then when we get to the point where it might be appropriate to hear these matters then if the defendants will notify the Court the Court will then take appropriate steps to have the witnesses produced in chronological order.

If you have any grounds to quash any subpoena, if

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you feel that you have enough grounds, well, file a written motion onthat.

MR. NEAL: But at the present time I can advise the people that they shall not appear until further action of the Court?

THE COURT: Yes.

MR. NEAL: Now, your Honor, one other matter. Mr. Robert Erdahl is here. Mr. Erdahl has responded to the subpoena. You remember this morning we said that we would undertake to get him here on the afternoon plane from Washington. He is here.

Mr. Erdahl is the chief of the Appeals and Research Section of the Criminal Division, Department of Justice. I am confident, knowing Mr. Erdahl and knowing that his section has nothing to do with organized crime and trial practice in the Department of Justice, I am sure that he would be able to answer their questions and tell them that he has nothing and knows about this matter or any records and so forth.

Whatever records we have for rebuttal would not be within the knowledge of Mr. Erdahl. I would like, if we could, in view of his responsibilities in Washington, get this matter settled to the satisfaction of the defendants and get him out of here.

THE COURT: Well, let's have him in and have a voir dire at this time.

MR. HAGGERTY: We request that you call in the jury then, your Honor.

MR. NEAL: Now, this is not a matter for the jury.

THE COURT: Let's see if there is anything material.

MR. HAGGERTY: I will say this, will Mr. Erdahl violate the rule of the government and talk to me? I might be satisfied if I talked to him.

MR. NEAL: Mr. Haggerty, I have talked to you. I don't know of any rule of the Court that I shouldn't talk to you.

MR. HAGGERTY: I never have been able to understand you, Mr. Neal.

MR. NEAL: I can appreciate your difficulty, Mr. Haggerty, we are on two different wavelengths.

MR. HAGGERTY: If I am allowed to interview Mr. Erdahl, if he is here.

MR. NEAL: Put him on the stand.

MR. HAGGERTY: No, I don't want him on the stand. I'd like to talk with him. If he is going to be on the stand, let him be in the presence of the jury. I don't know what objection you have for me to talk to him.

THE COURT: Well.

MR. HOOKER: I suggest that we have him here in the morning. Your Honor, they insisted on him being here today. We think it ought to be disposed of, if your Honor

please.

MR. NEAL: Mr. Erdahl, would you take the stand, please?

MR. DALE: Raise your right hand.

MR. HAGGERTY: I object to --

MR. DALE: (Interposing) Do you solemnly swear that the evidence you shall give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. ERDAHL: I do, sir.

MR. NEAL: Your Honor, we tender Mr. Erdahl, we have had him. They asked him to be here this afternoon, as your Honor will remember. I sent someone out. They insisted, Mr. Hoffa said there's a 1:30 plane or 1:45.

THE COURT: Yes, you insisted on his being here this afternoon.

MR. SCHIFFER: We insisted --

THE COURT: (Interposing) If he knows anything material, if you want to ask him any questions.

MR. HAGGERTY: I refuse to ask him any questions in this. I am entitled and I have to have a jury trial. If Mr. Erdahl isn't willing to talk to me until I find out what he knows or don't know, then I say to you that I will not question him without --

THE COURT: (Interposing) You mean you want to

just go into this, get discovery, is that it? Do you insist you have the right to go into something that is get discovery before the jury, is that your position, Mr. Haggerty?

MR HAGGERTY: My position is I am entitled to certain basic rights, I insist on them.

THE COURT: All right. If you wish to examine the witness, so the Court can determine whether there is anything material that he has to offer, I will listen to you at this time.

MR. HAGGERTY: I refuse to examine him, your Honor.

THE COURT: All right. Any other defendant desire? All right, sir.

MR. NEAL: The record will show he is Mr. Erdahl. May Mr. Erdahl be excused?

THE COURT: Well, the Court will take under consideration whether or not he should be excused. The Court frankly doesn't understand this practice. The defendant did specifically request that he come on the plane this afternoon.

It was suggested that he be here in the morning and that wouldn't satisfy the defendants. Now he is here and --

MR. BERKE: (Interposing) If your Honor please, he told us that he was here after the jury had already gone.

THE COURT: All right.

MR. BERKE: Mr. Neal could have told us, he could

have told us.

MR. NEAL: What right do they have, a high official of the Department of Justice --

MR. SCHIFFER: (Interposing) What is sanctified about Mr. Erdahl?

MR. NEAL: They have been preaching to me about manners. As your Honor remembers, I cannot make an objection without Mr. Haggerty --

MR. HAGGERTY: (Interposing) What do you believe in, the divinity of kings?

THE COURT: Mr. Haggerty, sir. Are you through?

MR. HAGGERTY: I am through, your Honor.

THE COURT: All right. Now, I have given you the opportunity to examine this witness to determine if there is anything material that he has to offer. As I understand, no defendant desires to examine him.

MR. SCHIFFER: May all defendants then say the same exception upon the same grounds as Mr. Haggerty? May I state that we should like to examine this witness in front of the jury. It's about time we had a jury trial here, not the kind of a trial Mr. Neal wants and so far as his past remarks about high officials, there is no sanctification in this country, this is not a kingdom, there is nobody above a subpoena.

Now, this is a criminal case. We subpoenaed him.

We want him in front of the jury now, not the way Mr. Neal wants him in with conditions.

THE COURT: All right.

MR. NEAL: We went out of the way to get him down here this afternoon and he does need to get back. I think it is certainly giving the defendants everything they have asked for to have him here now.

THE COURT: All right. Anything --

MR. NEAL: (Interposing) I think he should be excused.

THE COURT: Anything further at this time, gentlemen?

MR. SIZER CHAMBLISS: Your Honor, I have a motion to quash the subpoena.

MR. NEAL: Excuse me, I beg your pardon, sir, just a moment. May he be excused, your Honor, to --

THE COURT: (Interposing) He may be excused from the stand. The Court will take under consideration whether he should be excused from any further appearance.

End 37a
38 fls

MR. NEAL: Would Your Honor notify the marshal if you make a decision this evening?

THE COURT: Yes, I will notify the marshal.

MR. HAGGERTY: I still say to Your Honor, if Mr. Erdahl wants to talk to me this evening I would be happy to talk to him.

THE COURT: All right.

MR. SILETS: Your Honor, I would like to state the position of the Defendant Dorfman, we join in the motion of the Defendant Hoffa and relate to the Court that amounts to a deprivation of trial by jury if we were to inquire of every witness outside of the presence of the jury.

THE COURT: In other words, you think you have a right to come before this jury with just unlimited numbers of witnesses about which you have no knowledge what they will testify and explore before the jury whether or not there is anything conceivable that they can add to the case? Is that the position of counsel for the defense?

MR. SILETS: Your Honor, my position is that under the right of the power of the court we have a right to subpoena anybody who we feel in our judgment is and may have relevant testimony. If he does not have relevant testimony, it is the obligation of the opposite--

THE COURT: (Interposing) Give you an opportunity to determine that tonight?

MR. SILETS: Your Honor, may I be heard?

THE COURT: Yes, sir.

MR. SILETS: It is the obligation of the opposition to object if they feel the testimony is irrelevant or immaterial or even on the Court's own motion to strike the testimony. But I don't know of any basis for the court, I assume Mr. Erdahl if he is the expert that the government suggests he is, might confirm this, that I know of no authority by which the Court and the government can outside of the presence of the jury have a discovery of our witnesses.

Now, this isn't a discovery by the defense. It is a discovery by the government.

Now, I suggest to the court that any time that we have such a discovery by the government outside of the presence of the jury, there is a deprivation of due process and deprivation of the ability to have a trial by jury. That is the position of the defendant.

THE COURT: Cite some authority where the Court has no authority to determine the materiality of the witness' testimony. I will be glad to read it. In the meantime, I suggest we read Chapter 20 in the "Bleak House" tonight and adjourn court. Is there anything further?

SIZER CHAMBLISS: Your Honor, I have a motion to quash a subpoena duces tecum to Mr. William D. Nesbitt of the Baton Rouge, Louisiana office, a motion has been filed

this afternoon. The face of the subpoena is so irregular that there was some question as to whether the motion should be filed until the subpoena was returned this morning in this court. I spoke to Mr. Nesbitt this morning. He states that he has none of the records that have been required in the subpoena duces tecum in this case.

THE COURT: All right. What do you have to say?

MR. BERKE: May I have the subpoena just a minute?

THE COURT: You will be excused from the witness stand at this time, sir.

THE WITNESS ERDAHL: May I make a motion? May I make an observation to the Court?

THE COURT: Not at this time.

(Witness temporarily excused.)

MR. CHAMBLISS: I have tendered to the Court the $50.00 that was given him with the subpoena and because I don't know what to do with it, Your Honor.

MR. BERKE: I will tell you what, Your Honor, I will take the $50.00 and we will cancel the subpoena. All right?

THE COURT: Well, gentlemen--

MR. BERKE: (Interposing) That ought to solve the problem. We will cancel the subpoena.

THE COURT: All right.

MR. BERKE: I will keep the $50.00.

38-4

MR. HOOKER: $50.00 ahead.

MR. BERKE: No trouble there.

THE COURT: Anything further, gentlemen?

MR. NEAL: Your Honor, could Mr. Erdahl make this statement? Maybe this will clear this whole matter up at the end.

THE COURT: Yes, sir.

WITNESS ERDAHL: The subpoena served on me in Washington on February 19, 1964 at 9:55 o'clock a. m., asks that I appear forthwith and bring with me all tapes, records, memoranda, reports, inter-office communications, or any other recordings or recordations and notes--

End 38

Tk 38A fol.

THE COURT: Yes, well, the subpoena duces tecum has been quashed, I mean, has been withdrawn and quashed and then withdrawn by agreement.

THE WITNESS: I understand that, sir, and I understand, too, that another subpoena was issued to me which has not yet been served on me today.

MR. BERKE: Yes, sir.

THE COURT: Well, sir, in order that you might understand, this morning the Court started to rule upon the motion to quash the subpoena duces tecum and the Court sustained the motion to quash the subpoena duces tecum. The counsel for the defense indicated thereupon that they would issue a subpoena and the government then indicated that they would request that you be here in response to any such subpoena. And the defense asked that you be here this afternoon. And that is the background of the situation as the Court understands.

THE WITNESS: I thought if I were to read this specific demand of the subpoena it might shed some light and may I offer a statement to the Court?

THE COURT: All right.

THE WITNESS: To resume: All records, recordations, notes, memoranda in writing or mechanically recorded and any transcriptions thereof in connection with matters relating to this cause. But more specifically to James R.

Hoffa and/or Edward G. Partin.

And all correspondence, memoranda, or other communications in connection with your activities relating to a meeting or meetings or arrangements being made for Edward G. Partin to get together with the United States Government or representatives thereof;

And more specifically with reference to meetings in Baton Rouge, Louisiana, and New Orleans, Louisiana, when Edward G. Partin met with officials of the State of Louisiana and federal officials regarding and pertaining to James R. Hoffa.

Now, the statement that I wish to make to the Court is that I know nothing about those matters specified in the specifics of the subpoena. I have no recordings or any other notes--

MR. BERKE: (Interposing) I can't hear the gentleman.

THE WITNESS: I have no memoranda, recordings, records, memoranda, any matters of any kind pertaining to these specifics of this subpoena. I know nothing about the matter mentioned in the specifics of the subpoena in the last two clauses of the subpoena.

EXAMINATION BY MR. NEAL:

Q Mr. Erdahl, have you ever worked on this case in any way yourself other than some attorney coming to you

for legal advice for something?

A No, I haven't.

Q Any way, shape, form or fashion?

A No, I have not.

Q Have you ever seen or talked to Edward Partin in any way whatever?

A Never. I didn't even--

MR. NEAL: (Interposing) Your Honor, this is what we are objecting to.

THE WITNESS: I never saw the man's name until I saw it in the newspapers in Washington.

BY MR. NEAL:

Q You never saw the man's name until you saw it in the newspapers in Washington?

A Newspapers in Washington, D. C., in the news accounts of this trial.

Q You are the Chief of the Appeals and Research Section of the Criminal Division of the Department of Justice?

A Yes, sir.

THE COURT: All right. Well, the Court will consider this matter and advise through the Marshal's office what the decision is in regard to releasing this witness.

MR. SILETS: May we have a moment, your Honor?

THE COURT: All right.

THE REPORTER: Mr. Erdahl, would you spell your

last name?

THE WITNESS: (Spelling) E-r-d-a-h-l.

THE COURT: All right, let's adjourn court until nine o'clock tomorrow morning.

(Thereupon, at 5:13 o'clock P.M. court was adjourned until nine o'clock A.M., February 26, 1964.)

End Tk 38A

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 25, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 25th day of February, 1964.

Fred B. Downing

Official Court Reporter

SCHAFFER

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	[redacted]
	:	
	:	NO. 11,989
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 26, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXVIX

PAGES 7481 TO 7731

DEFT. COPY

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

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	:	
vs.	:	NO. 11,989
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AGREED CHANGES IN TRANSCRIPT

PAGE	LINE	CHANGE
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6162	6	Change "Fields" to "Parks"
6372	14	Change "Hoffa" to "Broda"
6513	13	Change "repeated" to "reputed"
6516	3	Put a comma after the word "that"
6524	14	Change "defeatfully" to "deceitfully"
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6932	14	Change "thank" to "think"
7192	11	Change "calamity" to "calumny"
7327	9	Change "Properly" to "Probably"
7625	23	Change "would" to "should"

Attorney for Mr. Parks

United States Attorney

Attorney for Mr. Dorfman

Attorney for Mr. Hoffa

Attorney for Mr. Campbell

Attorney for Mr. King

Approved for Entry
This 27th day of February,
1964

Attorney for Mr.Tweel

UNITED STATES DISTRICT JUDGE

IN THE DISTRICT COURT OF THE UNITED STATES

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UNITED STATES DISTRICT JUDGE

I N D E X

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IN CHAMBERS HEARING

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TWENTY-EIGHTH DAY OF TRIAL

9:00 O'Clock A. M.
February 26, 1964

(Thereupon, pursuant to adjournment from February 25, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit;)

THE COURT: Mr. Schiffer, do you recall you made a request of the Court in regard to some statements of the witnesses Fields and Walker? Would you mind putting that in writing, sir?

I have read the record two or three times. I just don't quite understand the purport of your motion.

MR. SCHIFFER: Oh, it was simply this, they had been examined in reference to those statements, Your Honor, on cross examination and they admitted they had made those statements, so I wanted--, the government had provided us with copies and we simply wanted one copy at least in evidence of what they had testified to.

THE COURT: Well, would you do this, would you make a motion in writing and identify just exactly what it is, if it is an exhibit or something, identify it so the Court can find it?

MR. SCHIFFER: Fine.

THE COURT: I read the record twice last night and I just couldn't quite comprehend what you had in mind.

MR. SCHIFFER: Thank you.

THE COURT: The affidavit filed on behalf of Mr. James A. Durkin in regard to some telephone records, that has not been filed with the clerk I noticed. If the clerk will please file that and return it to the Court.

With regard to Exhibit No. 213, which was admitted for identification, the Court is of the opinion that that exhibit contains entirely too much immaterial, irrelevant and incompetent material to be allowed in evidence generally.

MR. SILETS: Your Honor, if the Court please, with respect to that document I intended to read only a portion of it to the jury, namely, the docket entries and some of the motions for a continuance on behalf of the government in the case.

THE COURT: Well.

MR. SILETS: Now, that goes--

THE COURT: (Interposing) If you will identify more specifically in some manner what portions you desire to introduce.

MR. SILETS: Well, I'd like to do that now, Your Honor, because I'd like to read it while the defense still has its case open.

I don't want to do this after the case has gone to

the jury, so if I may look at the document and read it right to the Court now what I am interested in reading to the jury.

THE COURT: All right. Examine the exhibit and identify what you have in mind. You may examine it and we will come back to that in a moment, sir.

It is the opinion of the Court that the motion of the Defendant Allen Dorfman for a mistrial filed upon February 24, 1964, with regard to his cross examination should be overruled.

It is the opinion of the Court that the motion made on behalf of the Defendant James R. Hoffa for production filed February 18th, 1964, should be overruled, except to the extent that the court has heretofore made available the transcript of telephone conversations.

End 1
Tk 2 fol.

THE COURT: It is the opinion of the Court that the motion on behalf of all defendants to require the government to disclose any additional recordings, filed on February 24, 1964, should be overruled.

It is the opinion of the Court that the motion on behalf of each of the defendants to quash and dismiss the indictment because he was illegally called before the grand jury, which motion was filed on February 24, 1964, should be overruled as to each defendant.

And likewise the motion filed on the same date to suppress the grand jury testimony of each of said defendants should be overruled as to each defendant.

All right, may we have the witness returned?

MR. HAGGERTY: Your Honor, I have a matter pertaining to the record first at Page 7466. It is the last paragraph on the page. Mr. Neal is speaking. Whatever records we have for rebuttal would not be in the knowledge of Mr. Erdahl.

I would like if we could in view of his responsibilities to get this matter settled to the satisfaction and get him out of here.

On the paragraph before he states, the paragraph before, the last after the comma, I am sure he would be able to answer their questions and tell them he has nothing and knows nothing about this matter or any records and so forth.

2 - 2

Now, may it please the Court, if there are the records in the government's possession of wire recordings, the word "records" was used, I at this time make a demand on the government under the authority of Brady vs. Maryland. I only have the citation in Law Week, 31 Law Week.

THE COURT: All right. 31 Law Week?

MR. HAGGERTY: Yes. Page 3435. That has to do with the suppression or withholding of evidence favorable to an accused is a denial of due process.

So I call upon Mr. Neal at this time if he has other records to produce them.

THE COURT: All right. What was the date of that Law Week, Mr. Haggerty?

MR. HAGGERTY: I haven't the date. I only have the number.

THE COURT: Do you know the year?

MR. HAGGERTY: It was in 1962, I believe, your Honor.

MR. KOSSMAN: 1963.

MR. HAGGERTY: 1963. Have you the citation, Mr. Kossman?

MR. KOSSMAN: May something.

THE COURT: All right. Proceed.

E[illegible] Tk 2
T[illegible] 3 fls.

MR. SILETS: Your Honor, first I would like to indicate to the Court a partial explanation of the theory of the defense of the Defendant Dorfman.

It is our position that the Witness Partin, being under the cover or being charged with a 26-count federal indictment of June 1962, had surrendered himself and was arraigned in July; that thereafter he was charged with a state offense of aggravated kidnapping, which is a non-bailable offense. He was incarcerated.

While he was incarcerated under that charge facing the federal charge it is our theory that he then struck upon the thought that he could get himself from under all of these charges by working a deal and furnishing information which would be what the government sought to hear with respect to the Defendant Hoffa.

That while in jail he contacted Mr. Daniels. Mr. Daniels then contacted Mr. Pitcher, who got in touch with Mr. Duffy, and Mr. Duffy, the Assistant U. S. Attorney, got in touch with Grimsley, who is a member of the Organized Crime Unit, and when it finally got to the right ears he had a conference.

Now, following this conference it was about the time that the United Bonding Company, who had a $50,000 bond on his federal indictment, indicated to the United States Commissioner, because he was incarcerated on the kidnapping

charge that they were going to withdraw his bond.

It was also about two days later that Mr. Pitcher had indicated to Partin that if he wanted to be released on the non-bondable offense that the children would have to be returned and they were returned October 4th.

On October 6th, the United Bonding Company indicated that they would withdraw their bond on October 8th, the date of the first conversation of Partin, which is a recorded conversation. We have a new bond filed on the federal indictment.

It is our theory also that as a result of all of this we have the United States Government in the face of the judge, the federal judge, Judge West, who up until that point had been pressing for the government to proceed and the government had gone upon the theory that they were going to proceed on the federal indictment, all of a sudden the government comes along and moves for a number of continuances until finally the final continuance is on the motion of the government for reassignment to another judge.

Now, this all fits into our theory that the government is acting with a helping hand to obtain some sort of measure of leniency to Mr. Partin so that Partin can go down to Nashville, Tennessee, and be available, even though it is outside of the State of Louisiana, and his bond does not extend beyond the State of Louisiana.

Now, he goes there. His federal indictment has been continued. It is our theory, at least the theory of the Defendant Dorfman, that this was all a measure of help by the government and a measure of promise for his testimony.

Now, in order to establish that, I have offered a certified exemplified copy of the docket entries of the Eastern District of Louisiana in the case of United States versus Edward Grady Partin and that has been marked for identification as Exhibit 213.

In order to establish my defense, therefore, I would seek to have permission of the Court to read to the jury the following docket entries:

The filing of the indictment on 6-22-62;

The arraignment on 7-20-62.

THE COURT: Are each of those marked by pencil so that the Court --

MR. SILETS: (Interposing) I have put a dot alongside of each one.

THE COURT: Put a check beside them.

MR. SILETS: Yes. I didn't want to deface the document itself. The docket entry of 9-21-62 where there is a minute order entered and the entry shows that the defendant was not present, and there is a continuance until October 5, 1963.

That the entry of October 4, 1962, on a motion for

a continuance.

On October 8th the filing of an appearance bond and the justification of other surety.

THE COURT: Check each of those items, sir.

End 3
4 fls

MR. SILETS: Yes, sir, I am right now. October 19th, the filing of motion of United Bonding to terminate and cancel their bond and October 31, 1962 the motion of the United States to continue the hearing.

And the entry appears of 12-7-62, the motion of the United States to--, the motion of United States Attorney to continue and for reassignment.

Now, as part of the documents under that I would like to read a portion of the respective motions of the United States for a continuance. There are three motions of the United States for a continuance. And there is a report of the proceedings before the United States Commissioner where among other things it shows that the representatives of the United Bonding and Insurance Company proposed to surrender the Defendant Partin to the United States Deputy Marshal but because the defendant was in jail as a state prisoner he was unable to do that.

Now, all of this, Your Honor, falls in line with the theory of our defense that Partin was buying his freedom by offering to make these statements, by offering to, on October 8, which is all subsequent to this, and October 18th, to make these phone calls to ask Hoffa if he could come to Nashville. And that in addition that all of these motions for continuance are at the behest of the government.

And this further establishes according to our

theory the defense that the government is continuing, has at that time, and is continuing to the present, to refrain from prosecuting him because he is testifying here.

Now Your Honor, that is the basis why I feel that I must read these entries to the jury.

THE COURT: All right, sir. Have you likewise checked the motions--, now you indicated that you had checked the docket entries, will you make some indication on the particular motions that you wish to consider and other matters so the Court can look at the exhibit and identify the respective portions you desire to read?

MR. NEAL: May I make a brief reply to that, Your Honor?

THE COURT: Yes, sir.

MR. NEAL: The defendants have been allowed great latitude to develop this theory of theirs. They have been allowed to call Mr.Daniels. Mr. Pitcher. Mr. Grimsley. Mr. Duffy. And Mr. Lacour. All the federal and state agents involved in the matter. They have brought out that the--

THE COURT: (Interposing) Yes, sir.

MR. NEAL: They have brought out that there were some continuances by the defendants, by the defendants counsel. There were continuances by the government. This effort here is just an effort to bring across the indictment again. Read the fact that he was indicted and arraigned. It is an

effort to prejudice. It is certainly cumulative, Your Honor. They have brought this matter out. They have brought it out through witnesses they called to the stand. They brought out through Mr. Duffy, I distinctly remember that his counsel, Partin's counsel, had asked for continuances. And that the government had asked for continuances. All that has been brought out.

So I say this is cumulative and an effort to prejudice and is not admissible.

THE COURT: All right.

MR. NEAL: Your Honor, the United Bonding stuff he referred to there, the withdrawing of the bond and surrendering, is clearly not admissible.

MR. SILETS: Just to respond to that last remark because I think the foregoing remarks were not worthy of response, but the response as to the bond, I might point out to the Court that at one time this witness Partin said that he blamed Dorfman and Hoffa for the withdrawing of his bond and I think if nothing else I can--, I should be permitted to introduce evidence to this jury and to establish beyond any reasonable doubt even though I feel I don't have to prove beyond a doubt that my man is innocent, but I can prove through these documents that his story is a lot of--, malarkey.

THE COURT: All right, yes, Mr. Haggerty.

MR. HAGGERTY: One more matter, may it please the

Court and that is with reference to the witness Erdahl. My information like a great deal of information I receive, I have found to be rumor. I in good faith subpoenaed Mr. Erdahl on the advice that I had received. Mr. Erdahl did not communicate with me last night or I would have informed him after getting out of the courtroom, that I gave the matter sober thought and I heard him testify on the stand under direction of Mr. Neal's examination that he did not have any knowledge of Partin.

With that, and it is in the record, with that may it please the Court, I am satisfied that Mr. Erdahl is an honorable man and I have no questions of him this morning.

THE COURT: All right, sir. Gentlemen, let's be at your leisure just a couple of moments. I want to check this Law Week citation and I will be right back. Please do not stray. I will be back within a couple of minutes.

End 4

Tk 5 fol.

THE COURT: Mr. Silets, if you would be willing to do so, would you please take this Exhibit 213 and unclip it and remove from it those documents therein which you do not desire to be submitted and then return to the Court just the documents which you do desire to read?

MR. SILETS: May I be seated at the Clerk's table?

THE COURT: Well, you may do this at--do it at recess.

MR. SILETS: Well, your Honor, the only thing I wish to point out to the Court is I don't know what the procedure or how fast we are going to move this morning, but I would like to read this before the defense closes its case.

THE COURT: Well, you will be given that opportunity.

All right. May we have a witness called and the jury returned?

WILLIAM EUGENE BUFALINO,

a witness called at the instance of the Defendant Hoffa, having been previously duly sworn, was recalled and testified further as follows:

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had and evidence introduced, to-wit:)

THE COURT: Good morning, ladies and gentlemen. All right. You may proceed.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Bufalino, when did you say you became a lawyer, graduated from law school?

A Graduated from law school in June, I believe, May or June of 1942, and became an attorney, was admitted while I was in the military service, sworn in by the commanding officer at Brookley Field, Mobile, Alabama, by reciprocity to the Supreme Court of the United States on the 20th day of August, 1942.

Q You became--you were admitted to practice then in 1942?

A That is right.

Q And admitted to practice in Pennsylvania?

A Admitted to practice in Pennsylvania and shortly thereafter in the Federal Court in the Middle District there.

Q You are admitted to practice in the Federal and State Court in Pennsylvania?

A That would be an accurate statement.

Q Do you live in Pennsylvania?

A I have a home--I have a dual residence--I have a home at 47 East Railroad Street, at Pittston, Pennsylvania, and a home in 79 Weber Place, Grosse Pointe Shores, Michigan.

Q How much time--

A (Interposing) And I would like to explain this

dual residence.

Q Well, may I ask the questions?

A May I amplify, may I explain my answer by saying this, when I was in the military service I enlisted from Wilkes-Barre, Pennsylvania, much like many other soldiers, married while I was in the military service, married a Detroit girl. My home was--and I was actually on detached service at 47 East Railroad Street, Pittston, Pennsylvania, I had my office there at 22 South Main Street, Pittston, Pennsylvania, with my brother, Charles J. Bufalino, who is also an attorney, my oldest brother, and then my residence, when I had to make a determination when I was 27 or 28 years old I was stationed at Romulus Air Force Base, Romulus, Michigan, which is right outside of Detroit and I married a Detroit girl.

We had a family there and there was a question--

Q (Interposing) Mr. Bufalino, could you just let me ask the questions and you answer them?

A That's what--

Q (Interposing) I know an attorney likes to talk but there are certain things--you are a witness now, not an attorney, as his Honor told you.

A I recognize but I would like to explain my dual residence and that is that my home--we have a family home at 47 East Railroad Street and one where my wife and children

live at Grosse--79 Weber Place, Grosse Pointe Shores, Michigan.

Q All right. You live in Michigan, is that right?

A I live in Michigan.

Q You spend all of your time in Michigan other than the time you spend on your duties and business with the Teamsters and the Defendant Hoffa, do you not?

A I would not say all of my time, a good portion of my time is spent in Michigan with my family. If I am not on the road working as special counsel for the International Union or as President of Teamsters Local 985 in Detroit, and I commute between Wilkes-Barre, Pennsylvania, or Pittston, which is on the outskirts of Wilkes-Barre, or Washington or Detroit or any other place throughout the United States that my duties will carry me as special counsel to the International Union.

Q Mr. Bufalino, my question was you spend all of your time in Michigan other than that time you spend on the road as President of the Local Teamsters Union and as counsel for the Defendant Hoffa or the International, is that correct?

A I gave you a complete answer just by my last answer, which was complete, and if you want me to--I don't think you want me to repeat it.

Q The question I asked--

A (Interposing) If you want me to repeat it, I will.

live at Grosse--79 Weber Place, Grosse Pointe Shores, Michigan.

Q All right. You live in Michigan, is that right?

A I live in Michigan.

Q You spend all of your time in Michigan other than the time you spend on your duties and business with the Teamsters and the Defendant Hoffa, do you not?

A I would not say all of my time, a good portion of my time is spent in Michigan with my family. If I am not on the road working as special counsel for the International Union or as President of Teamsters Local 985 in Detroit, and I commute between Wilkes-Barre, Pennsylvania, or Pittston, which is on the outskirts of Wilkes-Barre, or Washington or Detroit or any other place throughout the United States that my duties will carry me as special counsel to the International Union.

Q Mr. Bufalino, my question was you spend all of your time in Michigan other than that time you spend on the road as President of the Local Teamsters Union and as counsel for the Defendant Hoffa or the International, is that correct?

A I gave you a complete answer just by my last answer, which was complete, and if you want me to--I don't think you want me to repeat it.

Q The question I asked--

A (Interposing) If you want me to repeat it, I will.

live at Grosse--79 Weber Place, Grosse Pointe Shores, Michigan.

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A I gave you a complete answer just by my last answer, which was complete, and if you want me to--I don't think you want me to repeat it.

Q The question I asked--

A (Interposing) If you want me to repeat it, I will.

Q The question I asked, Mr. Bufalino, was this: You spend all of your time in Michigan other than that time you spend on the road in connection with your duties as President of a Teamsters Local or as counsel for the Defendant Hoffa or the International?

Now, that is easy to answer, isn't it?

A I answered that.

Q Well, what is the answer?

A My work takes me throughout the United States, all of the--I represent 1,700,000 members through their attorneys, I am actually liaison attorney between the International Union and Local Union attorneys throughout the United States.

Q All right. Other than that work you live in Michigan, do you not?

A I live in--I have two residences.

Q Mr. Bufalino, where do you stay when you are not doing this work for the Teamsters?

A When I leave here?

Q That's all I want to know.

A When I leave here I go to my wife and five children.

Q That's all I wanted to know. In Michigan, right?

A Yes.

Q Now, sir, you have never practiced any law in

Pennsylvania, have you, private practitioner?

A Private practitioner?

Q Yes, sir.

A I had four years in the military service that would actually be practically--

End Tk 5
Tk 6 fls.

Q Mr. Bufalino, do you understand what a private practitioner is? Just answer my question, would you, please? Have you practiced any law in Pennsylvania as a private lawyer?

A Do you want an answer?

Q Yes, sir.

A I was an attorney in Pennsylvania, August 20, 1942, I was at the same time legal officer, trial judge advocate --

Q (Interposing) Mr. Bufalino, I was in the Marine Corps. That is not a private practitioner. Now just answer my question.

MR. BERKE: Wait just a minute, if your Honor please.

THE COURT: Well, let's proceed.

MR. BERKE: We think this witness is entitled to make his answers.

THE COURT: Well, let him proceed.

THE WITNESS: I was legal officer --

BY MR. NEAL:

Q (Interposing) Do you consider, sir, that is a private practitioner?

MR. BERKE: If your Honor please, I object to Mr. Neal continually interrupting this witness. He has asked the questions. This witness is entitled to answer without

interruption by Mr. Neal.

THE COURT: Let's see if we can come to the point.

THE WITNESS: I was legal officer. I was investigative noncommissioned officer at Brookley Field, Mobile, Alabama, in the area of two years. I was judge advocate of a --

THE COURT: (Interposing) Let's get back to the point.

MR. NEAL: Your Honor, I was in the Marine Corps. That is not private practitioner.

BY MR. NEAL:

Q Do you call that the practice of law?

A Consider it practice of law, yes.

Q You consider that private practice of law?

A In this four years that I was in the service, in the military service, I have been in Pittsburgh, Pennsylvania, Wilkesboro, Pennsylvania, taking divorce cases and handling wills.

Q My question, if you consider that private practice of law?

A In the context you are attempting to elicit I was not doing that.

Q All right. That is the only answer. You live in Michigan, are you admitted to the Michigan Bar?

A No, I am not.

Q Pardon me?

A No, I am not.

Q By the way, did you take a bar exam in Pennsylvania?

A In Pennsylvania?

Q Yes, sir.

A No. And I would like to explain that.

Q I understand. You have explained that, Mr. Bufalino.

A I did not explain it.

Q You are admitted to practice because you were in the service?

A No, that wasn't it. The State of Pennsylvania passed a ruling and a law that any senior who was in good standing and I believe it was in their upper third of the class that had enlisted or is inducted into the military service of the United States will automatically graduate from law school and will automatically be admitted if he gets into the service, enlists or is inducted in the military service, will automatically be admitted to the Supreme Court of the United States. And with that, when I got my grades from my first semester I left the law school in April.

I enlisted on April 20, 1942, and on May 27th was graduation day, and some commanding officer or lieutenant colonel or some type of a military officer received my com-

mission. Or my degree because I did not attend my graduation of the law school.

Q Yes, sir.

A And then pursuant to that same regulation, on the 20th of August, 1942, I was sworn in by the commanding officer of the base.

Q Mr. Bufalino --

THE COURT: (Interposing) Let's see if we can't get on with this.

MR. NEAL: All I want these answers are very simple answers. I have a point to get to and if he will let me get to it, I will get to it.

BY MR. NEAL:

Q By the way, you don't mean to say that you graduated in the upper one-third of the class?

A No, I was not in the upper one-third of the class, but I graduated with a bachelor of arts degree at the University of Scranton and the University of Laws at the Dickenson School of Law in Carlisle, Pennsylvania, and I became an attorney according to the laws of the Commonwealth of Pennsylvania. That is what I want you to know.

Q I know some of the better lawyers didn't graduate in the upper third. You mentioned you graduated in the upper third. I wanted to straighten that out. You didn't do so. All I asked you was did you pass a bar examination in Pennsyl-

vania and your answer is no.

A It is not that I never took the bar exam.

Q You deny that you didn't pass the bar examination?

A My answer is that I didn't take it.

MR. BERKE: Wait a minute.

THE WITNESS: Wasn't required to take it.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, I'm entitled to an answer to that, I believe.

MR. BERKE: Not when your Honor sustains the objection.

THE COURT: He said he didn't take the bar examination. Let's proceed.

BY MR. NEAL:

Q Have you ever passed a bar examination?

A No, I have not.

MR. HAGGERTY: I object to the same question, may it please the Court.

THE COURT: Overruled.

BY MR. NEAL:

Q And you applied for practice in Michigan?

A I did.

Q Did you take the bar examination?

A I did.

MR. HAGGERTY: Object to it as incompetent, irrelevant, immaterial.

MR. BERKE: This Court certainly circumscribed

our cross examination and I don't see the materiality of it.

THE COURT: Let's proceed.

MR. NEAL: He went through a long tirade of how he had been admitted to practice in the Supreme Court.

THE COURT: Let's proceed.

MR. BERKE: I object to that statement.

BY MR. NEAL:

Q Did you take the bar examination?

MR. HAGGERTY: I object. It is incompetent, irrelevant, immaterial.

THE COURT: I believe he answered that question. Proceed.

MR. NEAL: I didn't hear his answer.

MR. BERKE: If your Honor please --

THE COURT: (Interposing) I understood him to say he didn't take the bar in Michigan.

BY MR. NEAL:

Q You did not --, he did not take the bar?

THE COURT: That is what I understood him to say.

BY MR. NEAL:

Q Did you take the bar --

MR. SCHIFFER: (Interposing) Objected to, your Honor. Mr. Neal knows the Court heard it. The jury heard it. It is improper to state something your Honor ruled out.

MR. NEAL: I don't believe that was the answer. I

would like to get the answer.

THE COURT: Let's proceed in some other way.

BY MR. NEAL:

Q Did you apply for permission to take the bar?

MR. HAGGERTY: I object to that. It is incompetent, irrelevant, and immaterial to any issue here. It does not go to the credibility of this witness or for any issue or probative value that is in this case.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, he has testified as to the bias he presumed of the Witness Partin.

MR. BERKE: We object to that comment by Mr. Neal. The objection has been sustained.

THE COURT: Sustain the objection to the question as asked.

BY MR. NEAL:

Q All right, sir, in your application for permission to practice in Michigan, were you asked if you had ever passed the bar exam anywhere?

MR. HAGGERTY: I object to that as incompetent, irrelevant, immaterial to what issues we have here.

THE COURT: Overrule that objection.

BY MR. NEAL:

Q Specifically were you asked and did you state, I have taken the bar examination in the following states:

Pennsylvania, year 1942. Passed. Did you so state in your application for Michigan Bar license?

MR. HAGGERTY: I object to this, may it please the Court. It is totally irrelevant to any issue here. It is entirely a collateral matter. This man is not being tried for being a lawyer or not being a lawyer. Of course he is a lawyer.

THE COURT: Overrule the objection to the question.

THE WITNESS: I don't recall my application that I made but if I would have put passed it is regarded as being passing the bar examination.

BY MR. NEAL:

Q Let me read here, I have taken the bar examination.

A I would rather read it myself.

MR. HAGGERTY: I object to the reading.

THE WITNESS: May I read it?

BY MR. NEAL:

Q Yes, you may read it. Certified copy of your application to the State of Michigan where you say you passed the bar examination and I will ask you --

MR. HAGGERTY: (Interposing) I object to that comment, may it please the Court, before the instrument is in evidence.

THE COURT: Sustain the objection.

MR. HAGGERTY: I ask that Mr. Neal be so instructed.

THE COURT: Yes, sustain the objection.

MR. HAGGERTY: I ask the Court to instruct the jury to disregard it.

THE COURT: Disregard the statement of counsel.

THE WITNESS: And this is not with reference to my application to the State of Pennsylvania.

BY MR. NEAL:

Q What is it an application for?

A It is application for admission to the bar of the State of Michigan.

Q All right. Were you asked on there if you passed the bar examination anywhere and didn't you say that you had passed the Pennsylvania bar?

MR. BERKE: Wait a minute. We want to object to that. It is a play on words. It has no significance in this matter at all. And we want to object to it.

MR. NEAL: Your Honor, the witness just testified he had never taken the bar exam.

THE COURT: Overruled.

MR. NEAL: I asked him and tried to get him to answer.

THE COURT: Overrule the objection.

End 6a
7 fls

A I don't know where it is here, where you are asking.

Q I am asking on the last page.

THE COURT: Well, to save time, it will save time if you just show the witness what you are talking about.

MR.NEAL: All right, sir.

A This is something that is written in 1947 and I don't remember.

MR. HAGGERTY: May it please the Court, I strenuously object to this. What materiality is any of these things to the issues in this case or why is it laying a foundation for impeachment or anything of that nature? It wouldn't be impeachment and then again it's entirely collateral.

THE COURT: Overrule the objection.

MR. SILETS: Your Honor, may I inquire is it Mr. Neal's intent to show that he is not a lawyer? As I understand it, he was admitted by Judge Miller to argue a case in Nashville and he was admitted here before this Court. Is there some issue whether he is a lawyer or not?

A My signature does not appear after this typing. I don't see this at all. Would you just show me where my signature appears at the end of that?

Q Appears at the end of that?

A Yes, I'd like to know where my signature is.

Q All right. I will show you your signature right

here.

A On the first page?

Q Signed "William Bufalino", sworn and subscribed to

A It's a one page application.

Q All right.

A Now you have three pages there.

Q All right. You signed the document, this is all part of the document, is it not, sir?

A I don't know if it is. I recall having signed a one page document.

Q You understand that is one page with a back on it, do you not, sir? You also see asterisks where that refers to the first page and you filled out the back page and you signed and you swore to that.

If you don't recognize your signature on that then O. K.

A I recognize my signature on this dated the 18th day of March, 1947 and I notice that this, what you are referring to is on the back and I don't know if it--, it was not filled in at the same time, I don't believe--, I don't know if it was filled in at the same time and I am regarded as having passed the bar examination, automatically passed the bar examination.

Q I thought you just told me previously you never took the bar examination.

A You are regarded--

MR. HAGGERTY: (Interposing) I object to that as argumentative, if Your Honor please.

A You are regarded as having--

THE COURT: (Interposing) Sustained.

BY MR. NEAL:

Q As a matter of fact, sir, right below that where it says, "I have taken the bar examination in the following states--Pennsylvania, past", and it's got a place for the number of times and you put "one"?

A It would be automatically passing the bar examination for that state.

Q O. K. Now, sir, when did you become business agent for Teamsters Local 985 in Michigan?

A I would think it was sometime in 1947.

Q Sometime in 1947. This is shortly after you got out of the service, was it not?

A I would say that.

Q Who appointed you as business agent?

A There was no appointment.

Q What happened?

A I was a business manager for the local union, Local 985, and I was employed by the local union and later on I was elected business agent in 1950, business agent and president in 1950.

Q Who employed you as business manager for the local?

A Mr. James, Eugene C. James.

Q Jimmy James?

A Eugene C. James.

Q Eugene C. James. All right, sir. How long were you business agent--, by the way, what is the jurisdiction of Teamsters Local 985?

MR. HAGGERTY: Object as incompetent, irrelevant, and immaterial, Your Honor.

MR. SCHIFFER: Collateral issue.

MR. HAGGERTY: All of these are collateral. Mr. Neal and Mr. Hooker protested at length to save time. Now they are not delving into anything but in irrelevant and incompetent matters, entirely collateral to any issues in this case or laying the foundation for any proper impeachment.

THE COURT: Well, let's proceed.

BY MR. NEAL:

Q What is the jurisdiction of your local there?

A Our local union is the miscellaneous local union that has organized auto wash workers, coin machine, vending machine workers, repairmen, servicemen, park employees, employees working in glove factories, anybody that is unorganized.

Q Juke box workers?

A Anyone that designates Teamsters Local 985 as the duly authorized business representative to represent them for bargaining purposes for hours, wages, working conditions and conditions of employment.

I will undertake to organize those unorganized workers in that particular field, notwithstanding what jurisdiction some other local union may think that they have.

Q How long did you stay business agent?

A About two years.

Q What did you become then?

A I was elected president, I believe, November the 30th of 1931--, of 1950 of Teamsters Local 981.

Q You have been president ever since?

A I have been elected president ever since.

Q Is that a paying job?

A It certainly is.

Q How much do you get paid?

MR. HAGGERTY: Objected to, incompetent, irrelevant and immaterial.

THE COURT: Sustained.

MR. NEAL: I want to show this man is a full-time teamster official.

MR. HAGGERTY: Well, I object to that statement. He's a lawyer as much as Mr. Neal is a lawyer. He is admitted to the Supreme Court of the United States.

THE COURT: Well, let's proceed, gentlemen. Sustain the objection.

MR. HAGGERTY: Maybe a better lawyer.

BY MR. NEAL:

Q You do get a salary?

MR. BRANSTETTER: Now, may it please the Court, I represent the Defendant Campbell. This testimony can have no possible or conceivable relationship to any issue that I know exists as to Campbell or any other defendant.

Now, it should be stopped at this point and I object to it or I want the Defendant Campbell severed from these proceedings at this time.

THE COURT: Overrule the objection. Proceed.

BY MR. NEAL:

Q You do get a salary, though, from Local 985?

MR. SCHIFFER: Objected to, Your Honor. That question has been ruled out by the court.

MR. NEAL: I am not asking how much.

MR. SCHIFFER: Your Honor, that was ruled out by the Court, now he wants to open the door again.

THE COURT: I sustained the objection as to the amount of any salary.

BY MR. NEAL:

Q You do get a salary from Local 985?

MR. HAGGERTY: I object to it as having been

asked and answered, repetition.

THE COURT: Overruled.

A I get a salary from Local 985 of--, $300.00 a week of that goes to the United States Government for income tax purposes.

Q Well, that's understood. $300.00 a week for income tax?

A That's exactly right, $300.00 of my check goes there, I get between $24.00 and $34.00 take home pay out of that check.

Q Well, do you also work for the International Brotherhood of Teamsters?

A I have testified that I am special counsel to the Teamsters International Union throughout the United States with offices in Washington, D. C., at 25 Louisiana Avenue in Washington and 2801 Trumble Avenue in Detroit and I am in charge of the main and principal office in Detroit.

Q Do you get paid a salary there?

A I do.

MR. HAGGERTY: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

BY MR. NEAL:

Q Incidentally, Mr. Bufalino, I have here--, speaking about that bar exam business, I have here a certificate of

the state board of bar examiners stating that you--

MR. BERKE: (Interposing) Just a minute.

MR. SCHIFFER: Objected to.

THE COURT: Sustained.

MR. BERKE: If Your Honor please, can we have some protection by this court from such tactics? We have asked at least a dozen times--

THE COURT: (Interposing) Let's proceed.

MR. BERKE: All the Court says is, "Sustain the objection."

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Now, Mr. Bufalino you have testified in this case out of the presence of the jury, I believe, that Mr.--

MR. SCHIFFER: (Interposing) Object to any testimony that has been outside the presence of the jury, Your Honor. You know this is improper and Mr. Neal knows it's improper.

Now, if he wants to put in everything that transpired in the absence of the jury I'm willing for everything to go in here, but Mr. Neal can't just select by himself as to what he wants to put in and what not. Let's put everything in so the jury can hear all of the evidence in this case and this case will go out the window and he knows it.

THE COURT: Well, disregard the argument of counsel.

MR. HAGGERTY: What is Your Honor's ruling on that objection?

THE COURT: Well.

MR. NEAL: Your Honor, I am entitled--

MR. HAGGERTY: (Interposing) Just a moment.

THE COURT: Show the Court what it is.

MR. NEAL: I want to ask him generally.

MR. HAGGERTY: I object to what he wants to ask him, any statement in front of the jury--

MR. NEAL: (Interposing) I am not going to state it.

End 7
7A Vol.

MR. HAGGERTY: It's addressing the Court or a question to the Court.

MR. NEAL: May I hand this to the Court?

MR. HAGGERTY: You may, Mr. Neal.

MR. NEAL: It certainly contains the direct testimony he gave yesterday, your Honor, it starts at the bottom under the name Mr. Bufalino.

MR. BERKE: If there's any question about those questions we would like to see them and be heard on it, if your Honor please.

THE COURT: Well, I don't see the relevancy of it. Let's proceed to some other matter.

MR. NEAL: Your Honor, I haven't asked him with respect to the Witness Partin. He testified about that on direct examination.

THE COURT: Well.

MR. NEAL: I will just ask him without referring to that.

THE COURT: All right.

BY MR. NEAL:

Q Isn't it a fact, Mr. Bufalino, that Edward Partin, the witness here, was in and around Mr. Hoffa's suite?

MR. BRANSTETTER: May it please the Court, I want to object. May it please the Court, I understood the Court just ruled that unless everything goes in that was not heard that none of it is going in.

THE COURT: No, gentlemen, I sustained --, I wasn't able to see the relevancy of the matter. Let's go ahead.

MR. NEAL: Was my question improper?

THE COURT: Proceed. I'm unable to determine at this time.

BY MR. NEAL:

Q Mr. Bufalino, you saw the Witness Partin in Mr. Hoffa's suite during the Nashville trial on several occasions, did you not?

A I did.

Q Pardon me?

A I did.

Q Would you say numerous occasions?

A I said yesterday, I wouldn't say few. I won't say many. I won't say numerous.

Q You say several?

A Now today I say not numerous. I said on several occasions.

Q Now, sir, you testified that you went down to Baton Rouge to meet with Mr. Partin?

A Yes, I did.

Q Did you go down there to counsel him as an attorney?

A I went down, I went down in the first instance, he asked me to come down with reference to the constitution, that his attorney was not familiar with the labor matters and labor laws and I counseled him but for more particularly with reference to the question of the withdrawal card and authority of an officer to sign a withdrawal card and the proper procedures set forth in that in the issuance of a withdrawal card.

Q Did you go down there to counsel him, sir, as an attorney?

MR. HAGGERTY: Let him answer. He hasn't finished answering your question.

THE WITNESS: And at that time we had discussions generally many subjects prior to my going in while I was in Nashville, we had talked about many subjects.

THE COURT: Mr. Bufalino --

THE WITNESS: (Interposing) I won't attempt to go into them now.

THE COURT: Mr. Bufalino, sir, listen to the question, please, and respond to the question. Let's move along.

BY MR. NEAL:

Q Did you go down there to counsel him as an attorney?

A I went there in a two-fold capacity but not to counsel him as an attorney because he had his attorney, Ossie Brown, who was not inclined or disposed to take advice of anybody because of the fact that in Lousiana, these were criminal matters that were pending, they have Napoleonic code which they follow and with which I am not familiar and as Mr. Ossie Brown explained the laws of Louisiana are entirely different than the laws of many other states, and he was not interested in --

Q (Interposing) What is your answer, sir, did you or did you not go down to counsel him as an attorney?

A That is my answer.

Q What?

A I gave you my answer.

Q Could you answer me, did you or did you not go down to counsel him as an attorney?

A I went down there to counsel him with reference to the methods and procedures with reference to the withdrawal cards.

Q And to give him legal advice on that?

A I couldn't give him legal advice. He had an attorney. And in order for me to ever begin to counsel him as an attorney I would have to have authorization from his

own attorney, Ossie Brown.

Q Well, his own attorney was there, was he not?

A His own attorney came in at the request of Mr. Partin.

Q Mr. Partin, you were --, Mr. Bufalino, you were taken in on the conference then?

A Pardon?

Q And you were in on the conference?

A They came to my room.

Q Yes, and the three of you discussed matters there?

A We did discuss matters.

Q Mr. Partin, did Mr. Partin advise you of certain facts and so forth?

A Mr. Partin had advised me of certain facts in Nashville, Tennessee.

Q Had he advised you as an attorney?

A No. In fact, he testified from this witness stand that in October he didn't know that I was an attorney.

Q I'm talking about in Baton Rouge, did he advise you in Baton Rouge you were an attorney?

A I am talking about Nashville.

Q I am talking about in Baton Rouge.

A Baton Rouge, I don't know what was running through Mr. Partin's mind, but I know what was running through my mind. I know the constitution of the International Union. I'm

familiar with it, and I would be willing to assist and cooperate with the attorney in advising him and consulting with his present attorney at that time in enlightening him on various points in the constitution of the International Union.

Q And you have no problem with disclosing matters occurring in that conference between you two attorneys and Mr. Partin, is that correct?

A Pardon? I haven't disclosed any.

Q You haven't?

A And I haven't, number one, I haven't disclosed any.

And number two, there is no problem at all. If you are talking about the question of any privilege, the privilege was waived by Mr. Partin when he came here and testified falsely with reference to advice that I was allegedly giving him in February of 1956 when in fact the discussion that he was talking about was in January, between the 7th and the 10th of 1956. A month prior to him ever getting a subpoena.

Q Mr. Bufalino, you don't mean 1956?

A 1953.

Q 1953?

A Yes, 1953.

THE COURT: All right.

MR. HAGGERTY: 1963, isn't it, Mr. Bufalino?

THE WITNESS: 1963 is what we are talking about. Mr. Neal is all confused.

BY MR. NEAL:

Q Pardon me?

A Mr. Neal is a little confused.

Q Yes, I noticed that. Mr. Partin testified about something that occurred in Washington, you giving him the Fifth Amendment to take before the grand jury in Washington; he didn't testify, Mr. Bufalino, about matters occurring in Baton Rouge, don't you know that?

A That is why I say it is a lie, that is why I tell you that he fabricated a story and transposed the conversation that took place in Baton Rouge between January 7 and the 10th of 1963 and transposed it from January to February.

Q Mr. Bufalino, Mr. Partin testified about a matter occurring in Washington, not Baton Rouge. I am asking you, he purported to testify about nothing that took place in Baton Rouge.

MR. BERKE: If your Honor please, excuse me --

BY MR. NEAL:

Q (Interposing) I'm asking you, sir, if --

MR. BERKE: (Interposing) Excuse me, I just want to straighten this up.

THE COURT: This is argumentative. Let's proceed,

gentlemen.

MR. BERKE: He keeps referring to Baton Rouge, I want to keep the record straight. Actually it was in New Orleans, if your Honor please.

THE WITNESS: New Orleans.

MR. BERKE: He says Baton Rouge, and I want to keep the record straight as to where it took place.

THE WITNESS: I wouldn't go into Baton Rouge.

BY MR. NEAL:

Q Pardon me?

A I would not go into Baton Rouge.

THE COURT: Let's don't go into that here, let's proceed.

End 8
8a fls

BY MR. NEAL:

Q Now, Mr. Bufalino, you testified, I believe, that Mr. Partin was present when you gave him some witnesses, some questions and answers for them to go out and study. Is that correct? During the last trial?

A No, I did not testify that.

Q Well, you said you interviewed them and you listened to their answers then you wrote out questions and answers and made several copies and gave to some of the witnesses who were going to testify?

A That is not what I testified.

Q Pardon me?

A That is not what I testified.

Q Well, in the last trial didn't you testify just yesterday, sir, that Mr. Partin was present when you were interviewing witnesses, Mr. Larry Sammut, or something, for one, you gave the example?

A Yes.

Q And that you listened to their answers they gave you in response to certain questions, right?

A Yes.

Q Did you so testify?

A I testified to that.

Q And didn't you say then that you had questions and answers typed up?

A I had the interview, the transcript of my interview dictated and typed, yes.

Q And it was in the form of questions and answers, was it not?

A That's right.

Q Pardon me?

A Yes, I have a copy here.

Q And you gave those to the witnesses to read, did you not?

A Mr. Partin handed them out.

Q Gave them to the witnesses?

A Yes, sir.

Q To read?

A Yes, sir. And to make any corrections, alterations, deletions, additions, and change it in any way so that I did not misunderstand what they were telling me. And that is the question, that is the questions and answers in which it mentions one of the questions is, on Page 2 of that, and I said that there were more than one page and it was stapled and on Page 2 of that question and answer memorandum is where I mentioned back in 1953 there were Hoffman investigations. Is that not correct? That is what I referred to when you got up?

Q Mr. Bufalino, I won't go into the substance of the questions.

A I could see why you wouldn't.

Q I believe you then testified that I knew about the questions and answers the next day?

A Had every reason in the world to believe and I can prove it.

Q You assumed that Mr. Partin told me, is that correct?

A No, I don't assume that. I assume that he told Mr. Sheridan and Mr. Sheridan told you and you used the fruits of that product.

Q So, you assume?

A In the courtroom.

Q You assume Mr. Partin was relating the information to Mr. Sheridan, is that correct?

A There is no question about that.

Q I see.

A There is no question about that.

Q Now, that occurred some time along about the middle of the trial. Is that right?

A I tell you it occurred on December 4th and December 5th of 19--the week prior to December 4th, because I think I talked to Larry Sammut on Sunday evening before December 4th, and December 5th is when I interrogated Larry Sammut and I have the transcript of that testimony here in this courtroom today.

Q Then you testified that subsequent to that there was an event whereby Mr. Hoffa and Mr. Partin got into an argument or Mr. Hoffa was telling Mr. Partin something about quit running around and take care of his union, and Mr. Partin stormed out?

A That's right. That was in Mr. Hoffa's--that is in the parlor part of the suite.

Q But that happened after the question and answer incident, didn't it? According to your testimony yesterday?

A Yes, sir. But I didn't know what Mister--that Mr. Partin was a spy for the government.

Q Yes, but I am saying that incident--

A (Interposing) I thought you were psychic, that is all I figured.

Q Mr. Bufalino, the incident where you say Mr. Partin stormed out occurred after the question and answer incident?

A I estimated it. I am not going to pin myself down on before or after. I said about ten or twelve days before. So now if you recall--

Q (Interposing) You said ten or twelve days before the trial ended?

A Before the trial ended.

Q So that would be after?

A December 5th, let me explain this, that was a

Thursday. December 6 we were off court, 7th and 8th was Saturday and Sunday, and the 9th was on a Monday.

Q Now, Mr. Bufalino--

A (Interposing) Now, it could be after or before. I don't know that.

Q Mr. Bufalino, to conclude this, you have known Mr. Partin how long, sir?

A I believe I testified and to the best of my recollection I met him when he introduced himself in my room.

Q You had not known him before the Nashville trial?

A Don't ever remember meeting him before the Nashville trial.

Q Did you ever remember seeing him before that?

A Don't ever remember seeing him or hearing his name.

Q How long have you known Mr. Hoffa?

A I have known Mr. Hoffa ever since I come out of the military service and I have known Mr. Hoffa when I was 27 years old. He was 32. And we walked picket lines together and we organized together.

End Tk 8A
Tk 9 fls.

Q All right, sir. Now, have you spent considerable time with Mr. Hoffa in the last seven or eight years?

A Yes, between him and my wife my time has been monopolized.

Q I believe you testified that Partin suggested that he would bring in Billy Wade to shake hands before the jury?

A I believe I testified that he was--he has mentioned that he would--that he knew several football players, including Billy Wade, Jim Taylor, Billy Canon, and that he went--he told me that he went to the Louisiana State University, LSU, and played football with them.

Q Yes.

A And I think that when Mr. Partin was telling me he really believed he played football with them at LSU.

Q Mr. Bufalino, would you just answer the questions?

A I am answering the question.

Q All right.

A And he told--

Q (Interposing) Did he suggest--was it your testimony that Mr. Partin suggested that he had Billy Wade come in and shake hands with Mr. Hoffa in front of the jury?

A It was like I said yesterday, a feeler, an overture, a statement on his part, talking to Bill Bufalino and that again--

Q (Interposing) Well, was that the gist of it, Mr. Bufalino?

A And looking in retrospect I could see the real reason why he was making these statements now.

Q Was that--

A (Interposing) I didn't know then, I know now why he was making them.

Q Mr. Bufalino, was that the gist of the statement?

A That was the general gist.

Q That he was suggesting to you that he would have Billy Wade come in and shake hands with Mr. Hoffa in front of the jury?

A That's not the gist of the statement, he was talking about knowing them, that they would be able if he were to call them he would be able to get them to come in, right in, because he gave a free union book to Jimmy Taylor and Billy Canon and--

Q (Interposing) But to come right in?

A Let me finish.

Q No, you may not.

MR. BERKE: Just a minute, if your Honor please. I don't think the attorney has any say-so about that, if your Honor please.

MR. NEAL: Your Honor, we don't think Mr. Bufalino -- I can finish this thing in two minutes if he would just answer

the questions.

THE COURT: Well, I will start timing you now, let's go.

MR. NEAL: If you make him answer the questions. That's not very long.

BY MR. NEAL:

Q Mr. Bufalino, you are on my time now.

A I am on time and a half at this time.

Q Was--

THE COURT: (Interposing) All right. Now, gentlemen, let's settle down and try this lawsuit and respond to the questions, sir, and ask questions and let's proceed.

MR. NEAL: All right.

BY MR. NEAL:

Q Now, was the general idea that he would have Billy Wade to come in and shake hands with Mr. Hoffa before the jury, is that what you say?

A That wasn't the general idea. He suggested-- he made that statement, that is all it was, Billy Wade.

Q All right.

A Jimmy Canon and Jimmy Taylor and Billy Canon.

Q Were you with Mr. Hoffa in 1957?

A Was I with him?

Q Yes.

MR. SCHIFFER: Objected to, your Honor, unless it can be shown--

MR. NEAL: (Interposing) I can show its--

MR. SCHIFFER: (Interposing) A fishing expedition.

THE COURT: Overrule the objection.

A When in 1957?

Q When in 1957? During some litigation involving Mr. Hoffa in 1957.

A Yes, I was.

Q Was Mr. Partin the one who suggested that Joe Louis come in and shake hands?

MR. SCHIFFER: Objected to.

MR. SILETS: Objected to.

MR. SCHIFFER: I move for a mistrial, your Honor. I move for a mistrial. This has been deliberate on the part of the prosecution. The prosecution knows it has no case now, it seeks to bolster by incompetent testimony given by Mr. Neal and I say to your Honor it's only one way we are going to have a fair trial. I move for a mistrial at this time because it was all calculated to prejudice this jury.

MR. BERKE: If your Honor please--

MR. HAGGERTY: (Interposing) Now--

MR. BERKE: (Interposing) Excuse me, Mr. Haggerty. I again ask the Court, is there anything that the Court can do to stop Mr. Neal from making these statements? First of

all, they are not true, they are incompetent. He throws these things out when he knows there is not a bit of support for that and we want to object to it, if your Honor please.

MR. NEAL: The witness can testify.

MR. BERKE: It's not true.

THE COURT: Let's not proceed with the argument. I sustain the objection. Overrule the motion for a mistrial and let's proceed.

MR. SILETS: Your Honor, I'd like to enter a motion for a mistrial on behalf of the Defendant Dorfman. I don't think any admonition of Mr. Neal at this point can be effective, your Honor. I say this for four or five weeks that we have been asking for such an admonition, this is not the first time Mr. Neal has injected highly prejudicial matters.

THE COURT: All right. I sustained the objection and I will overrule the motion for a mistrial.

MR. HAGGERTY: Has the Defendant Hoffa the benefit?

THE COURT: Sustain the statement, the question of counsel.

MR. HAGGERTY: And ask it be stricken and the jury instructed to disregard it.

THE COURT: Yes, disregard the statement.

MR. ALEXANDER: That's to all defendants.

THE COURT: To all defendants.

MR. SILETS: It's my position that that is not sufficient, your Honor, and the only recourse is a motion for a mistrial.

THE COURT: Well, overrule that motion.

MR. BRANSTETTER: May it please the Court, I represent a Negro defendant in this proceeding. I think that the only way that justice can be achieved at this point is for a mistrial on behalf of the Defendant Campbell.

THE COURT: Overrule the motion.

MR. BRANSTETTER: And I move for a severance, may it please the Court.

THE COURT: Overrule that motion.

MR. BERKE: If your Honor please, Mr. Hoffa was on the stand, they didn't ask Mr. Hoffa that question. We are willing to be asked that question, if your Honor please. This is a complete fabrication on his part, prejudicial.

THE COURT: Let's proceed, gentlemen.

MR. BERKE: We object.

End Tk 9
Tk 9A fls

MR. NEAL: Your Honor--

THE COURT: (Interposing) Just a moment. Proceed if you have any further questions. Let's proceed. We are not going to take up the trial time of the jury here with these interminable arguments. Let's proceed. The Court has ruled on the matter.

MR. NEAL: I wanted to point out the reason I didn't ask Mr. Hoffa.

MR. BERKE: Just a minute.

THE COURT: Mr. Neal, Mr. Neal. I have instructed you not to state further matters. Just refrain from doing so. Let's proceed with this trial.

MR. NEAL: I have no further questions, Your Honor.

THE WITNESS: Your Honor, may I--, there's one thing--

THE COURT: (Interposing) No, sir.

THE WITNESS: May I consult with the attorney?

MR. HAGGERTY: No questions. Come down, Mr. Bufalino.

(Witness excused.)

THE COURT: Call your next witness.

MR. BRANSTETTER: We would like to call Mr. Daniels. This witness is being called by the Defendant Campbell.

WILLIAM HAWK DANIELS,

previously called at the instance of the Defendant Dorfman, having been previously duly sworn, was recalled and testified further as follows:

RECROSS EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Daniels, you have been previously sworn and given testimony in this proceeding, is that correct?

A Yes, sir.

Q In your previous testimony you stated that you had trained Mr. Partin on the use of a recording operation or apparatus, is that correct?

A Yes, sir.

Q And that you had listened in on a telephone conversation between the Defendant Partin and--, between the witness Partin and Mr. Hoffa on October the 8th, 1962.

A Yes, sir.

Q Could we have--, I believe you further testified that you had the disc or the recording transcribed and typed up.

A No, sir.

Q You did see this recording after, I mean the material after it was typed up?

A I don't recollect that it was ever transcribed in our office, Mr. Branstetter.

Q You have seen a copy. Could I hand you exhibit 215 first, please, I believe this was furnished to us by the government yesterday or the day before.

MR. HAGGERTY: By the Court.

MR. BRANSTETTER: By the Court, I believe, yes. Thank you.

BY MR. BRANSTETTER:

Q Would you look at that and state whether or not that is a transcription or a typing up of the telephone conversation on October the 8th, 1962, between Mr. Partin and Mr. Hoffa.

A I would say that it is a fairly good facsimile or transcription.

Q Would you please read it to the jury, designating which person is speaking.

A "Operator: (Male voice) Hello.

"Hello operator."

MR. REDDY: Wasn't that exhibit just marked for identification?

THE COURT: Allow him to proceed.

A "Operator: (Male voice) Hello."

This was the operator at the motel. "Hello."

"Partin: Give me long distance, please.

"Operator: (Male voice) All right.

"Partin: (Mumble)

"Operator: (Female voice) Hello.

"Partin: I want to call Washington, D. C. Sterling 3-0525 Area Code 202.

"Operator: (Female voice) Hello.

"Partin: Let me speak to Mr. Hoffa's secretary please.

"Operator: (Female voice) Thank you, sir.

"Secretary: (Female voice) Mr. Hoffa's office.

"Partin: Uh, this is Ed Partin. Is Jimmy in?

"Secretary: Who's calling?

"Partin: This is Ed Partin, Local No. 5 in Baton Rouge, Louisiana.

"Secretary: Just a moment, please.

"Hoffa: Hello.

"Partin: Hello.

"Hoffa: Hi, Ed.

"Partin: How are you doing, Jimmy?

"Hoffa: All right, how are you?

"Partin: Pretty good.

"Hoffa: On the street?

"Partin: Yea, just got out, uh, Saturday.

"Hoffa: I want to tell you something, brother. You better be very, very careful. You're not going to get any bonds because they're really trying to cut you down.

"Partin: Yea. I know that. I got some pretty

damned good information they are trying to hang me under that.

Et 9A
Tk 10 fol.

Ah, they're trying to talk to Burns on this."

"Hoffa: What?

"Partin: Local members here and the business agents that I'm working on talked to Burns on it.

"Hoffa: 150,000?

"Partin: Says yes, I got a bonding company and all. What I was thinking, Jimmy, after I get this thing straightened out today and tomorrow and everything if you get an opportunity or something I would like to get with you and talk with you and talk this thing out.

"Hoffa: Well, I will be here all week.

"Partin: You will be there all week?

"Hoffa: Yea.

"Partin: When would you like for me to call you when you--

"Hoffa: Soon as you get up.

"Partin: All right.

"Hoffa: You are going to call me or come up?

"Partin: Well, I will just call and ask you about let you know when I'm coming. I will ask you about it. You know we have got the General Chemical election coming up.

"Hoffa: Yes. About that we got a problem. Dusty wants to put that local in trusteeship and we can talk about that.

"Partin: Yes, I will tell you, Dusty is the one who is going to hang me if he don't shut Chuck Winters' mouth

up.

"Hoffa: Shut up who?

"Partin: Chuck Winters' mouth running.

"Hoffa: What is he doing?

"Partin: Talking to everybody that can be talked to about all these cases and everything about trying to shake Judy Al? And then and behind the scenes Judy Al is working right with the people about trying to hang me."

THE WITNESS: If Your Honor please, may I interpolate? This is J. D. Albin because I have heard the tape over and over.

BY MR. BRANSTETTER:

Q Just read it as it is listed there.

A (Further reading by the witness.)

"Hoffa: Well, I guess I better call Winters.

"Partin: Fine. Good enough. I will call you and I will try to get things straightened out today and tomorrow and I will give you a call and then I will come on up.

"Hoffa: You better make sure that local is running right and hold them together so the members know what is going on.

"Partin: That is what I'm talking about. After I get everything straightened here.

"Hoffa: Get around to all your members.

"Partin: We have got a meeting tonight along and I will know then after I meet with them. I will know then you know what.

"Hoffa: What did they set the trial on the kidnapping?

"Partin: You know that won't come up, Jimmy. There is nothing to that. They will never come up. They have just another way to get me in jail and have me setting around.

"Hoffa: I think it was more than that. I think it was an effort to get your first bond cancelled.

"Partin: Yes. That is what the attorney seems to think and on these now the commercial loan we were supposed to get ahold of the federal judge and tell him that we might run this local through mine (mumbled) and get a written statement from him and let me operate and move around like I should so he won't let them cancel the date until then I'm going to be darned careful because they are going to be watching every move.

End 10
10A fol.

"Hoffa: Of course, you can't leave then until you get permission.

"Partin: That is what I figured but he is going to take and get ahold of him today. He appointed the Federal Judge. Thatis it then. Be seeing you.

"Hoffa: Let me know when.

"Partin: Sure enough Jimmy."

"Conversation ends. This is a recording of a telephone conversation that was initiated at 7:10 a. m. on October 8, 1962 by E. G. Partin calling long distance from Room No. 238 of the Holiday Inn Motel, located in Baton Rouge, Louisiana, which long distance call was charged to Local No. 5 and the call was overheard by William H. Daniels of the District Attorney's office."

BY MR. BRANSTETTER:

Q Now, Mr. Daniels, do you recall what day you testified here previously the first day you appeared?

A The date?

Q Yes.

A This was on Wednesday which would have been probably the 18th of February or the 19th.

Q And this is the conversation that you testified that you helped set up for the recording purposes?

A This is one of them, sir.

Q Right. And we asked you certain questions about them, but did not have this transcript to hand you at that time. Is that correct?

A That is correct.

MR. BRANSTETTER: We would like to have this marked in evidence.

THE COURT: All right. It has heretofore been marked in evidence.

MR. BRANSTETTER: I thought only for identification purposes.

THE COURT: Well, it is admitted in evidence.

THE CLERK: No. 215.

(The transcript previously marked for identification as Exhibit No. 215 was received in evidence.)

MR. BRANSTETTER: Still, could I inquire what date this was marked from the clerk? Or look at it and state?

THE CLERK: When it was marked?

MR. BRANSTETTER: Yes.

THE CLERK: Originally?

MR. BRANSTETTER: No. When it was marked and opened.

THE COURT: Filed yesterday.

THE CLERK: The 25th.

MR. BRANSTETTER: All right.

BY MR. BRANSTETTER:

Q Now, Mr. Daniels, I believe you testified also that there was another conversation. Could we have the witness handed Exhibit No. 216 please now. Now, would you proceed in the same manner, Mr. Daniels, and read this and state--, read this transcription also with designating the names just as you did previously and also the notations?

A Yes, sir. (Reading by the witness.)

"Partin: I want this billed to my office number,

Walnut 4-1757. The name is E. G. Partin. P-a-r-t-i-n. I want to call Newark, New Jersey, for the Essex house.

"(Interchange here operator off line apparently connecting with the Essex house Hoffa's suite next thing.)

"Partin: My name is Partin, business agent from Baton Rouge, Louisiana. I need to talk to him on something if I could.

"Voice Male: I will see what he says.

"Baton Rouge Operator: Yes.

"Partin: Baton Rouge, Louisiana.

"What is your name?

"Partin: E. G. Partin. P-a-r-t-i-n. Ed Partin, business agent, Baton Rouge, Louisiana.

"Voice Male: Ed Partin I will see what he says now. He just had a long distance call and refused it with, dashes indicating an omission.

"Partin: Find out if I can call him back if he is not taking them now, please.

"Voice Male: All right.

"(But then Hoffa comes on line.)

"Hoffa: Who is this?

"Partin: Ed Partin.

"Hoffa: Yes, Ed.

"Partin: I hate to interrupt you, Jim, but I need to talk to you on--(blank)

"Hoffa: Yes.

"Partin: When can I see you? You said you would be there on the 22nd in Nashville. What is the best day to come?

"Hoffa: The 22nd. I'm going to be there.

"Partin: All right.

"Hoffa: I'm going to be there Sunday also.

"Partin: All right. Then a period indicating an omission.

"Hoffa: Sunday afternoon.

"Partin: Will Sunday or Monday be all right? If I couldn't get the schedule out either one?

"Hoffa: Right.

"Partin: We won that election at General Chemical.

"Hoffa: Wonderful.

"Partin: 142 to 92.

"Hoffa: Wonderful.

"Partin: So I wanted to let you know about that also. (Apparently bad connection at this point.)

"Hoffa: Hello.

"Partin: Hello.

"Hoffa: What about bulk transport?

"Partin: They are all back to work, Jimmy.

"Hoffa: Wonderful.

"Partin: Lake Charles was dissatisfied but they

didn't vote for it but-- (again periods indicating an omission.)
The majority ruled on that and they are back to work.

"Hoffa: All right, Ed, either Monday or Tuesday
10B at the Andrew Jackson Hotel.

"Partin: Andrew Jackson Hotel.

"Hoffa: Now, Monday you will have to be there
before one o'clock."

BY MR. BRANSTETTER:

Q Would you read that again?

A Yes, sir.

"Hoffa: Now, Monday you will have to be there
before one o'clock.

"Partin: One o'clock?"

MR. SCHIFFER: Pardon me, Your Honor.

BY MR. BRANSTETTER:

Q Could I see this? Mine indicates "after" instead
of "before". Yours is "after".

A (Further reading by the witness.)

"Partin: After one o'clock.

"Hoffa: Yes."

BY MR. BRANSTETTER:

Q Could I just, Mr. Daniels, it says "after", doesn't
it, instead of "before"?

A (Reading by the witness.)

"Hoffa: You will have to be there--

"Hoffa: Now, Monday, you will have to be there after one o'clock."

Excuse me.

BY MR. BRANSTETTER:

Q Proceed.

A (Further reading by the witness.)

"Partin: One o'clock.

"Hoffa: Yep.

"Partin: All right. Fine, Jimmy.

"Hoffa: Thank you.

"Partin: Thank you a lot." There is no notation or memorandum after that.

BY MR. BRANSTETTER:

Q Now, did you bring the recordings from which this was transcribed?

A No, sir, I did not.

Q I believe those were filed with the Court. We would also like to have those recordings attached to the typed transcript and introduced into evidence. Who did you turn them over to originally?

A I think that I turned the original over to Mr. Frank Grimsley.

Q Mr. Frank Grimsley?

A Yes.

Q And you know Mr. Frank Grimsley as the gentleman

who testified here he was employed by the United States Government?

A Yes, sir.

MR. HAGGERTY: I think, however, that the chain of possession seems to have been from Mr. Grimsley to Mr. Neal and Mr. Neal turned them over to the court.

THE COURT: I assume there were some exhibits filed. I will check those exhibits and see what was filed, Mr. Haggerty.

MR. NEAL: The only time I knew about it was this trial.

MR. BRANSTETTER: Well, this second material you were reading of the telephone conversations one of October 18th?

THE WITNESS: Yes, sir.

BY MR. BRANSTETTER:

Q 1962?

A That is correct.

MR. BRANSTETTER: Now, do we have it clear as to the present location of the belt or the tape or the disc?

THE COURT: I will check the record at our recess and clear that up.

End 10
11 fol.

MR. BRANSTETTER: We do want those, may it please the Court, to be attached.

Now, we also, if it has not been previously done, want to file the transcript along with, as I say, the recording disc, whatever was involved in evidence at this point and would like for this typed transcriptions to be passed to the jury.

THE COURT: They may be passed. As I say, I will check the exhibits in regard to the belts.

MR. BRANSTETTER: Thank you.

THE COURT: Anything further of this witness? All right.

MR. SILETS: May I hand up to the Court Exhibit 213?

THE COURT: Yes, sir. All right. Mr. Neal, anything?

MR. NEAL: Yes, your Honor.

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Daniels, according to the transcription you read there, the last one, Mr. Hoffa said he would see Mr. Partin Monday or Tuesday?

MR. BRANSTETTER: May it please the Court.

MR. BERKE: Object.

MR. BRANSTETTER: The transcription speaks for

itself.

THE COURT: Yes, sustain the objection.

MR. BRANSTETTER: After many weeks we obtained it and it speaks for itself.

THE COURT: All right. Nothing further, you may be excused.

THE WITNESS: Thank you, your Honor.

(Witness excused.)

THE COURT: All right, anything further?

MR. NEAL: We still have the Witness Bloomenstiel to cross examine.

THE COURT: With regard to Exhibit 213, Mr. Silets, you will be permitted to read the items that you have checked.

MR. SILETS: Thank you, your Honor. Your Honor, I see it's about recess time. After the jury has finished examining these documents, can we have a recess, then I will read that after the recess?

THE COURT: Well, I would rather not take a recess at this time, the jury has only been in the box for an hour, unless there is some personal reason why we should, I would rather proceed.

MR. BRANSTETTER: May it please the Court, I think the government wants to call Mr. Bloomenstiel, is that the correct name? This might be the appropriate time to do that.

MR. BERKE: However, we have an offer of proof on

Mrs. Partin and also Mr. Bloomenstiel. I don't think the Court has said anything about that this morning, as I recall, unless --

THE COURT: (Interposing) No, I have those matters under consideration. All right. Anybody further to call at this time?

MR. SCHIFFER: Just reserve, I believe, for your Honor's ruling on the Witness Reynolds, I think your Honor had reserved on him.

THE COURT: I will sustain the objection as to the Witness Reynolds.

A JUROR: Your Honor, may we have a recess?

THE COURT: All right. Let's take a 10-minute recess at this time.

(Thereupon, at 10:32 o'clock, a.m., a recess was had.)

MR. SILETS: I apologize to the Court. Would the jury be permitted to continue examining the phone conversations?

THE COURT: Yes.

All right, call your next witness for the defense.

MR. NEAL: We still have cross examination of Bloomenstiel.

THE COURT: If that is in order, if there are no other witnesses to call for the defense.

MR. NEAL: Do they close?

MR. SILETS: No, we don't. Your cross examination was part of the defense of Bloomenstiel?

MR. NEAL: Yes, but I understood the Court wanted you to call any witness you have before that. We are ready to call Bloomenstiel at any time.

MR. SILETS: We suggest to the Court in order of expediency that Mr. Neal now examine Mr. Bloomenstiel.

THE COURT: All right. It is the opinion of the Court that the offer of proof of the defendant in regard to this witness is not properly filed and it is not relevant and competent nor material beyond the extent that it has heretofore been admitted.

MR. BRANSTETTER: May it please the Court, may I appropriately inquire whether or not the tapes were attached?

THE COURT: Sir, I haven't had the opportunity to check that. I will do that.

LESTER BLOOMENSTIEL,

having been previously duly sworn, was recalled and testified further as follows:

CROSS EXAMINATION

BY MR. NEAL:

Q You are Lester Bloomenstiel, is that correct?

A Yes, sir.

Q Am I pronouncing that properly?

A Bloomenstiel.

Q Bloomenstiel.

A Bloomenstiel.

Q Bloomenstiel. You testified some days ago on direct examination, being examined by Mr. Harry Berke, is that correct?

A Yes, sir.

Q You testified at that time that you were in J&L Truck Stop partnership where you and Mr. Partin ran a J&L Truck Stop partnership, isn't that correct?

A I testified to that, the government ruled it was a partnership, actually there was an agreement where Mr. Partin was the complete boss and I was only supposed to share in the profits.

Q Well, but together you ran this truck stop?

A Yes, true.

Q Sir, you sold diesel oil fuel?

A Yes, sir.

Q And you said that you and Mr. Partin became obligated to the United States Government for some $9,000 for diesel oil fuel?

A Yes, sir, excise tax on diesel fuel oil.

Q Excise tax on diesel oil fuel, right?

A Yes, sir.

Q And you testified that you paid it off?

A No, sir. Read the record. I paid my share and then I had to pay a part of Partin's share.

Q All right. Let me read the record then.

MR. HAGGERTY: What page is it?

MR. NEAL: Page 6759.

BY MR. NEAL:

Q Did you testify as follows:

"Question: I will ask you, Mr. Bloomenstiel, if in the operation of your truck stop business if you and Mr. Partin became indebted to the United States Government for a tax?"

And you answered, sir:

"Answer: Yes, sir. Over-the-road tax on diesel fuel, Mr. Partin failed to send a declaration in without my knowledge. And we were charged with fraud and we were given an opportunity to declare the tax we owed, and we agreed to each pay our share. I paid my share and Mr. Partin never paid his and the Federal Government quit pursuing him and I had to pay his share and mine too."

Q Now, if you think I have read that improperly I will be happy to give you the transcript page.

A You know a lot of objections was going on when those questions were asked.

MR. BERKE: That's right, and you read a little

further and see where he paid what was left of Partin's part.

MR. NEAL: Let me--

MR. BERKE: (Interposing) If your Honor please, furthermore we have made an offer of proof on that issue and the Court has not permitted us to go into that offer of proof.

THE COURT: This witness testified the other day.

MR. BERKE: Yes, your Honor, but the Court asked me to proceed on further when I was getting into the proposition of this collector and how it was that he was forced to make these additional payments.

THE COURT: Gentlemen, let's not argue the matter. Let's proceed.

MR. BERKE: If your Honor please, the position I take is that if we are not permitted to do it on an offer of proof then he is not permitted to do it on cross examination.

MR. NEAL: Your Honor, I want to make a statement but I don't want to make in front of the jury.

THE COURT: Proceed and state your objection.

THE WITNESS: Can I say something?

THE COURT: Just respond, sir, to the question that was asked.

BY MR. NEAL:

Q Did you so testify that, "I paid my share and Mr. Partin never paid his and the Federal Government quit pursuing him and I had to pay his share and mine, too?"

Now, did you make that answer?

A There were a lot of objections going on.

Q Did you make that answer, sir?

A How can I answer that whether I did or not?

Q I will show you.

A You asked a lot of questions about it. I answered Mr. Partin never did pay his. A note was attached.

Q Page 6759, did you make that answer to the question under the examination of Mr. Harry Berke the other day? Without going over it I will get to the other pages, too, Mr. Bloomenstiel. I will give you a complete and full opportunity to examine your testimony.

A If you will give me the opportunity to talk I can clear this statement up in one second.

THE COURT: Answer the question.

THE WITNESS: This statement was answered this way, your Honor, but as it went on it was explained.

End Tk 12
Tk 12A fls.

Q We'll get to the explanation.

A All right.

Q But I did read that page correctly?

A As far as I know.

Q Well, there it is. That is a certified true transcript.

A It may be that way but nobody has given me a chance to complete my answer. I was stopped. All I am asking for is a chance.

Q I will give you a chance. Did you make that statement?

A Yes, I made that statement.

Q Thank you. That you paid your tax and his, too?

A Yes, that's right.

Q Don't lose the place there and we will go on.

All right, sir, I am going to turn on over. All right, sir. On Page 6761 here is what happened. The Court says: "I understood he paid the full $9,700, didn't he?"

Mr. Berke says: "He said he paid his half."

The Court says, asking you the question: "Didn't you say you paid the rest of it?"

And you answered: "That was left on Mr. Partin, sir."

THE WITNESS: That's right.

BY MR. NEAL:

Q He said he paid all of it. All right. Then Mr. Berke says: "Did you pay it all at one time?"

And you said: "Paid my half at one time. And then later when I sold a piece of property I had to pay what was left to lift a lien which the government had taken. They were given orders not to pursue Mr. Partin."

BY MR. NEAL:

Q Did you make that answer?

A That's correct, sir. I have got further proof if you will let me show it.

Q Would you just answer my questions now, sir?

A Oh, yes, I will be glad to.

Q When did this take place now, the payment of Mr. Partin's share of the tax? That is at 6762. And you answered? You were asked: "When did this take place now, the payment of Mr. Partin's share of the tax?"

And you answered: "In June, 1963."

All right, sir. Now, then at Page 6763 you say, the question was asked, "Now, when did you pay your share of the tax?"

And you answered: "1960."

THE WITNESS: I was wrong. It was 1961.

BY MR. NEAL:

Q I am not quibbling about that, Mr. Bloomenstiel. All right, let's see if there is anything else because I want

you to understand that I am not trying to give you any of your testimony out of context. At Page 6764, this question was asked: "Mr. Bloomenstiel, what statement, if any, was made by the Internal Revenue Service agent as to why they were not collecting the tax from Mr. Partin?"

And you answered: "When I went in to pay the tax I asked them why hadn't they pursued Mr. Partin for it instead of me having to pay it and they told me that they had received orders from New Orleans not to pursue Mr. Partin any further. I said why would they do that. And they said you--"

You were quoting some unknown revenue agent?

THE WITNESS: I will give you his name.

BY MR. NEAL:

Q All right, give me his name.

A Major. Roger Major.

Q You are right, Mr. Hoffa, right down here, either Mr. Genark or Mr. Major. Mr. Genark.

A Mr. Genark is the one that I dealt with and Mr. Major was the other one.

Q You say it is Mr. Major?

A And Mr. Major, later there was another one.

MR. BERKE: You left out something right there.

MR. NEAL: I will read that, yes, sir.

"They said evidently they are going to use Mr. Partin for something a whole lot bigger," in those words.

THE WITNESS: That is exactly what they told me.

BY MR. NEAL:

Q All right, sir, is there anywhere there at the three or four places in here so far you said you paid your tax, your share of the tax, and Mr. Partin's, too?

A In the beginning,can I talk? Can I talk now?

MR. BERKE: I think he should be able to make an explanation.

MR. NEAL: Your Honor, this is cross examination.

MR. SILETS: You asked a question and now he wants to answer it.

THE COURT: Let him answer the question.

BY MR. NEAL:

Q All right. I am trying to find--I have a reference in here so that you won't--

A (Interposing) I want to clear it up for you.

Q All right. All right, now I believe that I have read every statement made with respect to your testimony that you made about Partin's tax, your tax, and Mr. Partin's, too, on this diesel oil fuel excise tax.

A Now, can I talk?

Q No, sir. I want to ask you these questions.

A All right, sir.

Q Is it not a fact, sir, first, do you know Mr. Robert Rooney?

A Yes, sir.

Q Isn't it a fact, sir, that Mr. Rooney purchased the J and L Truck Stop from you and Mr. Partin?

A Yes, sir, that is a fact.

End Tk 12A
Tk 13 fls.

Q And isn't it a fact, sir, that he paid you $3,000 on the spot?

A No, sir.

Q For your share?

A He gave me a note.

Q A note for $3,000. Did he pay the note?

A Yes, sir, he paid.

Q He has paid you $3,000 for your share, right?

A That's right.

Q And isn't it a fact, sir, that Mr. Partin agreed that Mr. Bloomenstiel should pay his share of the diesel oil tax?

MR. HOOKER: Mr. Rooney.

Q Mr. Rooney should pay Mr. Partin's share of the diesel oil tax as his compensation for his share of J and L Truck Stop?

A No, sir, definitely not.

Q That is not a fact?

A That is not a fact. That is why I wanted to talk.

MR. BERKE: You can go ahead and explain.

Q Isn't it a fact, sir--

MR. BERKE: (Interposing) Just a minute, if your Honor please. I think when a witness says he would like to explain it, if your Honor please, I think he is entitled to it.

THE COURT: Just respond to the question and then he may be examined.

BY MR. NEAL:

Q Isn't it a fact, sir, that it was Mr. Partin's agreement with Mr. Rooney--incidentally, you knew we had subpoenaed Mr. Rooney, didn't you?

A No, sir, I had no idea.

Q You had no idea that Mr. Rooney is sitting right out here?

A No, sir, I'd like to see him, he's a good friend of mine.

Q All right, sir. Isn't it a fact that under Mr. Partin's understanding with Mr. Rooney, Mr. Partin, unlike you, would receive no money, that he would be paid $50 a week which he would turn over to the Federal Government?

A That is--

Q (Interposing) Pardon me.

A Go ahead, you can finish and I will explain it.

Q Or in some manner Mr. Rooney would make installment payments on Mr. Partin's share of that tax on the sale of diesel oil?

A Can I explain it now?

Q You answer the question. Isn't that a fact?

A No, that is not a fact the way you have asked it, no, sir, definitely not a fact.

Q This is not a fact?

A Not the way you have asked the question, no, sir.

Q Isn't it a fact, sir, that in fact Mr. Rooney started paying Mr. Partin $50 a week and Mr. Partin started getting those checks from Mr. Rooney of $50 a week and endorsing them over to the Internal Revenue Service for payment of the fuel oil tax that you have testified here you paid?

A He started, yes, sir, but he did not continue.

Q Well, isn't it a fact that then Mr. Rooney started paying, started paying that tax under the understanding with the government that he pay, Mr. Rooney pay the Internal Revenue Service directly?

A Only after--

Q (Interposing) Just a moment, just a moment. On May 16, 1963, by check for $600 to the Internal Revenue Service Mr. R. J. Rooney paid in full Mr. Partin's share on the diesel oil fuel tax that you have testified here you paid?

A It was not his share in full.

Q It was not his share in full?

A No, sir, positively not. I went with Mr. Rooney and I had Mr. Rooney to hold up the $600. The note was levied, that's what I am trying to explain, if you will let me, the only way they could get Mr. Partin to continue paying that $50 a week was to levy that note. On my suggestion Mr.

Genark had it levied, they took that money and they applied it to some of Mr. Partin's personal tax bills. I fussed about it so they credited that money back to J and L, but there was money left on Mr. Partin's end and here is a receipt for what I paid on Mr. Partin's end, if you want to look at it.

Q Yes, I would.

A Here it is.

Q How much did you pay on Mr. Partin's end?

A Seventeen hundred and, well, here, you read it and here is mine, too, here is where I paid my half and finished paying Mr. Partin's. Let him look at mine.

Q All right, sir.

A I want it back because I need that for my income tax returns. I had to sell my property, Mr. Partin didn't have to sell anything but a little farm that was grown up in weeds.

Q Pardon me?

A I had to sell my property.

Q You had to sell your property?

A That's right. Every 30 days I had to get an extension from the government to keep them from seizing it.

Q It is your statement now that you paid $1727?

A It's a matter of record.

Q Excuse me. Would you just answer the question?

A Yeah.

Q It's your testimony now that you paid $1727.81 on Mr. Partin's share?

A That is what was left.

Q Pardon me?

A That's what was left to be paid and it had to be Mr. Partin's because mine was paid. There is my check.

Q That's what was left to be paid?

A That's right, mine had been paid in full.

Q Yours had been paid in full?

A Yes, sir. There is the check for the canceled check.

Q You say that was to be left to be paid?

A No, that is what was still owed as far as Mr. Partin owed, not me.

Q Mr. Partin owed. When did he owe it?

A What do you mean?

Q When did he owe this diesel oil tax?

A From the time they agreed, from the time we each agreed to pay half.

Q All right.

A I paid my half.

Q Yes.

A All right. Mr. Partin evidently didn't pay his half, I had to pay that part of Mr. Partin's.

Q Is it your understanding that you finally made up the balance after these payments from Mr. Rooney?

A It's not an understanding, sir, it's a known fact.

Q It's a known fact?

A There is a receipt for it. Here, I will give you something else if you want to take it.

Q Wait a minute.

MR. BERKE: Just a minute. I don't think that he can cut this witness off.

THE COURT: Allow him to answer.

MR. NEAL: Let me get my answer.

MR. BERKE: Just a minute. You cut him off.

A You cut me off, please, somebody did, that's why I never got a chance to explain in the beginning.

MR. NEAL: Well, let's see that just a moment then.

BY MR. NEAL:

Q You say somebody cut you off before?

A A dozen times there were objections and I started over.

Q On Page 6769 Mr. Berke said, "All right. Thank you."

A That was when after all--

THE COURT: (Interposing) Well, let's proceed.

MR. BERKE: Yes, your Honor. The Court has

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sustained numerous objections here.

BY MR. NEAL:

Q Now, sir, is it your testimony on the stand now that you paid part of Mr. Partin's tax?

A Yes, sir, positively.

Q That is your statement now?

A And a penalty in interest that Mr. Partin should have paid part of it.

End Tk 13
Tk 13A fls.

Q Now, is it your statement that you paid part of his tax after Mr. Rooney had paid some?

A Yes, sir.

Q That is your statement?

A Mr. Rooney paid actually what he owed Mr. Partin and no more. Now, Mr. Partin was supposed to bring his checks up every week. Mr. Partin didn't do that. I don't know how many checks you got there, but if you will see that there were a lot of Mr. Partin's cashed and kept for himself.

Q My question to you, sir, is it your testimony that you paid part or the remainder of the tax owed by Mr. Partin after Mr. Rooney had paid some?

A That's right, and penalty and interest, let's don't forget that.

Q After Mr. Rooney paid some you paid the rest of Mr. Partin's tax, is that correct?

A That's right.

Q That is your testimony?

A That's my testimony.

Q You are sure about that?

A I am absolutely positive.

Q All right, sir. Would you tell me the date of this receipt you have given me?

A Sixth month, seventh day, 1963.

Q Pardon me?

A Sixth month, seventh day of 1963.

Q All right, sir.

THE COURT: Is that June 7th, 1963?

THE WITNESS: Yes.

BY MR. NEAL:

Q All right. Sir, can you read this? I don't guess you can, I can't read it either.

A I have got some more stuff here if you want that can prove what I am saying, if you would let me show it to you.

Q Pardon?

A I have got some more information that can prove what I am saying, if you want me to show it to you.

Q All right, sir. Now, you actually did not pay -- your testimony was inaccurate that you gave here the other day, is that correct?

A My testimony would have been correct all the way down the line if I had been allowed just to continue. I started and in my testimony I said I paid a part of Mr. Partin's taxes.

Q Well, I read you three or four places.

MR. BERKE: If your Honor please, I object to him arguing with this witness.

THE COURT: Sustain the objection.

MR. NEAL: Very well.

BY MR. NEAL:

Q You have your check there again, sir?

A You have my check. I have a receipt but I have something else I can show you. Here's the check, I am sorry.

Q What was the total amount of the liabilitty now?

A It was right at 9700, 96-something without -- it was probably more than that by the time this interest ran on when I wound up paying it.

Q Pardon me?

A I said it was probably -- it started off almost 9700.

Q All right, sir.

A By the time I had to pay interest of $263.38 that I feel was very unfair. I feel I had paid mine. When the government asked me to I cooperated with them and I was still penalized, so I guess you could -- you get penalized for cooperating.

Q All right, sir. Why didn't you explain to the Court when the Court said the other day, page 6761, "I understood he paid the full dollars of $9,700, didn't he?"

And why didn't you tell the Court and tell the members of this jury that you had only paid --

MR. BERKE: (Interposing) That's argumentative, if your Honor please, he did explain it.

THE WITNESS: I tried my best to explain. Were

you here?

MR. BERKE: Now, let's see if you did.

MR. NEAL: Wait, wait.

MR. BERKE: Oh, I thought you were through when you went over.

THE WITNESS: I'd like to show him something else, please, sir.

MR. BERKE: All right. I will ask you about it, whatever it is.

MR. NEAL: Is that yours or mine?

MR. BERKE: No, this is mine.

BY MR. NEAL:

Q Now, Mr. Bloomenstiel, if you have anything you want to say, I am sure that your attorney will ask you. May I ask that Mr. Berke do the same thing I did, not read part of what he said but read all of what he said?

THE COURT: Well, proceed.

REDIRECT EXAMINATION

BY MR. BERKE:

Q While Mr. Neal asked you on record, page 6761, and when you replied to the Court, you, the witness, that is you, you said, "That was left on Mr. Partin, sir."

And the Court said, "He paid all of it? All right, sustain the objection."

Then I asked you again, "Did you pay it all at

one time?"

And you answered, "Paid my half at one time and then later when I sold a piece of property I had to pay what was left to lift the lien which the government had taken. They were given orders not to pursue Mr. Partin."

Did you state that?

A That's exactly right.

Q That you paid what was left on his part?

A That's right. I would like to be able to explain this thing from the beginning.

Q All right, do that, please, sir, so there will be no misunderstanding about it.

A When Mr. Partin called me and told me he wanted to get rid of the J&L Truck Stop and Mr. Rooney was interested in it, we talked about Mr. Rooney assuming all of the debts. At the time we were not aware that a purchaser cannot assume a tax debt from the federal government, so I talked to Mr. Rooney and got him to agree to give each of us a $3,000 note. Mr. Partin had agreed to take $50 a week and I told them they could pay me at the rate of $200 a month. When we got ready to close the deal, Mr. Partin insisted that his note be made for $4,000, so rather than argue with Mr. Partin -- I think there were three of them, I don't know, they gave him a note for $4,000 and gave me one for three.

I talked to Mr. Partin and told him that we would have to pay this money off. He agreed to send his $50 a week each week to the government. He said I have a farm, if I sell it, I will be able to pay the rest of mine off because it actually amounted to more than the $4,000. It was closer to $4,500, and there were some taxes and interest going on all the time.

Well, Mr. Partin did pay it for a while. Then the Revenue Department wanted all of this money at one time. This was after I had paid my share. And they started calling Mr. Partin. I think he hung up on Mr. Genark a couple of times.

Told me one day, I'm not going to pay those dirty so and so's a dime. I think he didn't. I think you will find a space where he didn't. Genark come and told me he was having trouble getting his money.

Said is there any way you can have Rooney pay you. Said we can levy that note. I said why didn't you do that and you will get your money. So he did and Rooney sent a check into the government. Some months, I think he sent them $200 and maybe he was late and he would catch up.

Then when it seemed to be getting down to the wire they were harassing me and I had put a for sale sign on my property and had them to go and look at it and they would give me 30 days and the 30 days was up and hadn't sold the

property and would give me 15 days and I hadn't sold it. And I finally went in and I borrowed the money and called Mr. Rooney and asked him how much it was behind with the government and he said about $600 would clear it up.

I asked him to hold up as much as he could. I was afraid the government was crediting this money to Mr. Partin's personal account which later I found out they were. And later they were fair to put it back on my account.

Then I think I went with Mr. Rooney when we gave the $600 to the federal government. I am not sure, but I think it was the same day that I paid the balance off.

I had then gotten a purchase agreement on my property and I went to the bank and I borrowed enough money to clear up everything.

And when I went in I asked them what was left, and they showed me the seventeen hundred and some-odd dollars. And gave me a receipt for it. Gave Mr. Rooney a receipt for the $600, I believe.

That was the end of the matter and we walked out in the front office. I asked again, I said, I am real curious to know why Mr. Partin was not pursued. Why his home is out on whatever street he lives on, I think it is, I can't remember the street now, Prescott, I said, his house is still there, and there is no for sale sign on it. They said well, we have been given orders from New Orleans not to pursue Mr.

Partin and I said why?

MR. HOOKER: We object to that.

MR. BERKE: No, your Honor.

THE WITNESS: I'm telling you exactly what happened.

BY MR. BERKE:

Q Go ahead.

A Said we have been given orders from New Orleans, Mr. Majors said not pursue Mr. Partin any further.

Q The cigarette.

A Sorry. Said maybe you can collect it. So they gave me a lien. And I would love to show it to you and the only way I would have it is because the local boys were trying to help me, I imagine. I own no property in St. Helena Parish. Mr. Partin owns a farm in St. Helena Parish. Whether it still owns it or not, I don't know.

But I hold a lien on Mr. Partin's farm for me right now and if somebody can get that farm for me, I would appreciate it. I hate to lose that $1,700 because I have got a family to feed. Does the government want to see this?

Q You have it there, do you not?

A Yes, sir.

Q I don't think they are interested in that, Mr. Bloomenstiel.

MR. NEAL: Yes, we are interested.

14-4

THE WITNESS: Are you interested in helping me recover this money?

BY MR. BERKE:

Q Mr. Bloomenstiel, let me ask you this, did the United States Government make any levy on Mr. Partin's property after you had paid your half of it?

A I understand, well, they took a lien on both of us. Took it at the same time. They did take a lien. Came out in the legal newspaper. I suffered that embarrassment after paying mine off. And I was told that they had frozen his salary. That he could not draw any salary. This was in the early part.

Q Mr. Bloomenstiel, I will ask you to look at this check that you gave to him and see if this check which you paid to the government if it doesn't show that that was for your one-half of the tax?

A Yes, sir, and I asked the man, Mr. Champagne, at the time to give me a receipt. He said they were not allowed to do that. But he promised me that they would not pursue me due to the fact that I had cooperated in giving him my half of the tax, but he only waited two weeks to pursue me. He was not telling the truth. He was untruthful.

End 14
14a fls

Q Mr. Bloomenstiel, we would like for you to file that check as an exhibit with leave for us to make a photostatic copy of that check and return to Mr. Bloomenstiel for his records.

A I would love to have it because I am going to have to take this off my income tax.

Q Yes, sir, Mr. Bloomenstiel. Would you file that? We will file that as the next exhibit, what exhibit is that, Mr. Clerk?

THE CLERK: No. 230, your Honor.

(The check referred to above was marked for identificationas Exhibit No. 230.)

BY MR. BERKE:

Q Now, will you please give the Marshal the receipt that you gave the government for some $1,700 or $1,800 additional that you had to pay?

A Do you think I am going to get this back?

Q Yes, we will arrange to get that back for you.

A They told me they would not pursue me and they did. I cannot believe it.

Q Well, we will take care of that if you will please trust us, Mr. Bloomenstiel.

A All right.

Q File that as the next exhibit.

MR. BERKE: What number would that be, Mr. Clerk?

THE CLERK: That will be No. 231.

(The receipt document referred to above was marked for identification as Exhibit No. 231.)

BY MR. BERKE:

Q Now, may I look at that? I have never seen it before.

A This was handed to me when I paid the government off in the Parish of St. Helena. I don't think I have ever been in that parish. I would love to know if Mr. Partin still owns the property.

Q All right. This lien, Mr. Bloomenstiel, is this a release of a tax lien which was made on the 7th day of June, 1963?

A Yes, sir.

Q Is that the same day that you paid Mr. Partin's balance of the share left?

A That would be the only way I would get Mr. Partin's property, I am sure.

Q All right, sir. I will ask you to file that as the next exhibit and we will make copies and return the originals to you if it is all right.

A I have got a lot of other things that cost me money if you want to see them.

Q Well, unless they have something to do with the tax--

A (Interposing) They all have something to do with the tax.

THE CLERK: No. 232.

(The release of lien document referred to above was marked for identification as Exhibit No. 232.)

THE WITNESS: Every bit of it. I paid my share to begin with. I mean this is all Mr. Partin's share. Mine had been paid before all this, the interest and penalty was added. Mine was paid the day they asked for it.

BY MR. BERKE:

Q You might state what it is. I have no knowledge of it.

MR. NEAL: Your Honor, I think he ought to stick to what his direct testimony was. That is what we are going to talk about.

THE COURT: Yes, sir. That's correct.

BY MR. BERKE:

Q Have you paid any additional sums for and on behalf of Mr. Partin that should have been paid by Mr. Partin?

A Yes, sir.

Q Is that money owed the United States Government?

A Well, there were fees that had to be paid. I asked for receipts and they gave me little receipts. Here is one for $1.75, not much money, but when you continue paying, you know, it kind of hurts. Here is another one for

$1.50. To get liens canceled that had no business being put on my property to begin with.

On June 7, regarding release of federal lien from J and L Truck Stop. That is where all this stems from.

Q Well, are they all small amounts that should have been paid by Mr. Partin?

A Small amounts. They were small amounts but it was the principle of the thing with me.

MR. BERKE: All right, sir.

MR. NEAL: All right, I want to ask you a couple more questions. Can we move the blackboard over here just a moment?

FURTHER RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Bloomenstiel, would you read me the amount of the share you have paid on this tax?

A How can I read it off when you have taken everything away from me?

Q Sorry. Let him see that. Would you read off there, sir, your check?

A $4,763.22.

Q All right, sir, now would you read off what you say you paid as part of Mr. Partin's tax?

A $1,727.81.

Q Seventeen what?

A Twenty-seven eight-one.

Q Twenty-seven dollars?

A One thousand seven hundred twenty-seven dollars eighty-one cents.

Q All right, sir, that is 3, 10, 11, 9, 14, is that correct? $6,491.03 is what you paid. Is that right?

A That is a lot of money.

End Tk 14A
Tk 15 fls

Q Yes, sir.

MR. SILETS: What about the $600, you haven't finished?

A That was paid by Mr. Rooney for a note that was levied, that was made out to Mr. Partin.

Q For Mr. Silets' benefit, this is what you paid?

A Plus these small amounts here.

Q Well, a dollar and two and three or four dollars?

A Yes.

Q Could we leave that off for the time being?

A I got a chance of getting this back?

Q Mr. Bloomenstiel, would you just answer the questions?

A Yes, sir.

Q This is what you paid, is that correct?

A That's what I have got evidence of.

Q Is that --

A (Interposing) Yes, sir, I paid that and more.

Q All right, sir. Now, you received $3,000 from Mr. --

A (Interposing) That has nothing to do with it. I sold my share of it.

MR. BERKE: If your Honor please --

A (Interposing) The truck stop for that.

MR. BERKE: What kind of gymnastics is that, if

your Honor please? He sold the truck stop and I don't think we can get into that kind of accounting.

A That has nothing to do with that. I sold that truck stop, I had to get something.

Q Yes, sir. This is what you received from Mr. Rooney?

A Yes, sir, that's what I received from Mr. Rooney.

Q Let's get the stub and see what --

MR. BERKE: (Interposing) We want to object to that, if your Honor please.

THE COURT: Sustain the objection.

MR. HAGGERTY: I ask it be erased from the board.

THE COURT: Sustained.

BY MR. NEAL:

Q Your Honor, I have a point to make. We'll show it.

MR. BERKE: We object, if your Honor please, it has been sustained.

THE COURT: Sustain the objection.

MR. BERKE: All right. Erase it from the board, Mr. Marshal.

BY MR. NEAL:

Q Would you look at that figure?

MR. BERKE: If your Honor please, how many times does the Court have --

THE COURT: I sustained the objection.

MR. NEAL: All right.

MR. MARSHAL: We will have order in the court, please.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q You paid some $6,400 in taxes?

A (Witness moves head up and down.)

Q You say your share and part of Mr. Partin's share, right?

A Right.

Q You received $3,000 for the truck stop?

MR. SCHIFFER: Objected. Any amount he received, your Honor, just ruled it out and Mr. Neal goes back to it again.

A Do I have to tell you what I sold my last pack of cigarettes for? That would be the same thing.

Q No, I will make my point clear to you if you just give me a moment.

MR. BERKE: If your Honor please, that has been sustained. We object to it again.

MR. SILETS: Your Honor, Mr. Neal is making oranges and apples here but you can't add them up together and come up with peaches.

THE COURT: Let's not get into fruit salad matters.

Let's proceed. Sustain the objection.

BY MR. NEAL:

Q All right. Now, Mr. Partin received a $4,000 note?

End 15
15a fls

A That's right.

Q Mr. Rooney paid your $3,000.00, didn't he?

A He also paid Mr. Partin, I am sure, part of it to the government.

Q Do you know that, sir? You are on the stand.

A I wasn't there when he paid it, no, sir, I was there when--

Q (Interposing) Do you know that he paid?

MR. HAGGERTY: Let him answer the question.

A Yes, I know that he paid it.

Q Mr. Bloomenstiel, you are under oath. I don't want you to say anything you don't know.

A Well, I was--, I went with him to the government, he paid the last $600.00 that was owed, he must have paid it all.

Q You paid that to the government?

A Yea, but that was Mr. Partin's note he was paying, it had been levied by the government.

Q Mr. Bloomenstiel, I am asking you, sir, you received your $300.00 in clear?

A Yes, sir.

MR. HOOKER: $3,000.00.

BY MR. NEAL:

Q $3,000.00 clear?

A $3,000.00 clear after two years.

Q Yes, sir. But you received your $3,000.00?

A Yes,sir.

Q Do you know how much Mr. Partin received for his part?

A I know what he was supposed to receive, I couldn't tell you what he received, no, sir.

Q Then you don't know what Mr. Partin received out of this truck stop, do you?

A Not definitely, no, I wasn't there every time he gave him money.

Q All right.

THE COURT: All right.

Q And you don't know whether Mr. Rooney, whether or not in fact Mr. Rooney paid all of Mr. Partin's $4,000.00 to the federal government?

A I do know that he did not pay all of it to the federal government.

Q Do you know how much he did not pay to the federal government?

A No, sir, I don't know the figures.

Q All right.

THE COURT: All right. If there is nothing further you may be excused.

THE WITNESS: Am I excused? Where do I go and get my plane fare for coming back up here, if Your Honor please?

REDIRECT EXAMINATION

BY MR. BERKE:

Q Mr. Bloomenstiel, after you paid your half did interest and the additional charges accumulate on Mr. Partin's one half of the taxes?

A I am sure.

Q For the three year period?

A I am sure they must have, it would take an auditor to tell me that but if it had to lay there with the lien interest was going to go all of the time.

Q All right. We would like Mr.--

A (Interposing) They already took my stuff away from me.

MR. BERKE: Does the jury have the checks and the receipts? We would like for that to be submitted to the jury, if Your Honor please. We will get, before the day is over, those and make copies for you, Mr. Bloomenstiel.

THE WITNESS: I'd appreciate it but you know how hard it is on this income tax business.

MR. BERKE: Yes, sir.

THE COURT: All right.

THE WITNESS: Am I excused, Your Honor?

THE COURT: Yes, sir.

THE WITNESS: Thank you, sir.

(Witness excused.)

15A-4

THE COURT: Call your next witness.

MR. SILETS: Your Honor, I'd like to read those docket entries.

THE COURT: All right, sir.

End 15A
Tk 15B fol.

MR. SILETS: Ladies and gentlemen of the jury, I am reading from a certified, exemplified copy of the record in Criminal Action No. 1452, United States versus Edward Grady Partin, United States District Court for the Eastern District of Louisiana. The entry on the docket sheet shows that the representative for the United States was Peter E. Duffy, Assistant United States Attorney. For the defendant, Ossie B. Brown and William C. Bradley, 218 St. Louis Street, Baton Rouge, Louisiana.

The indictment is indicated as the violation of 29 United States Code 439(c) and 29 United States Code 501(c), entitled labor-management reporting and disclosure act.

The first docket entry -- I am not going to read all of them, ladies and gentlemen, but the Court has given me permission to read some -- the first docket entry is June 22nd, 1962, the filing of the indictment.

The second docket entry I am reading to you is July 20th, 1962, arraignment of the defendant. "Defendant enters plea of not guilty. Court allows defendant 30 days from this date to file any motions. Defendant released on bond."

The next entry I will read to you, ladies and gentlemen, is September 21, 1962, "Filing minute entry of hearing -- defendant not present. Counsel for defendant files a written motion for continuance. Granted. Government moves

that the bond of defendant be forfeited and a capis issued. Denied. Ordered E. G. W.," standing for the District Judge, E. G. West. "That hearing on motions of defendant to dismiss the indictment, to transfer, for a bill of particulars, et cetera, be continued to October 5, 1962, at 2:00 o'clock, p.m. Issuing notice and entered."

Next entry is October 4, 1962, "Filing motion of plaintiff," that is, the United States, "For continuance of hearing of October 5, 1962, and order E. G. W.," meaning the judge of the district court, "That the hearing on motions of defendant set for October 5, 1962, be continued to be reassigned. Issuing notice and entry."

October 8, 1962, "Filing appearance bond in the amount of $50,000 and justification of sureties by W. E. West, James P. Gaudin, V. W. Prejean, A. D. Morton, and James W. Brown, and report of proceedings before U. S. Commissioner wherein said bond was substituted for previous bond of 6/27 issued by United Bonding Insurance Company."

Now, I would like to read to you a portion of that report which was filed, the report before the United States Commissioner dated October 6, 1962, in the proceedings of United States versus Edward Grady Partin. The remarks shown and signed by the United States Commissioner which were filed on the 8th of October but the proceedings occurred on October 6th, are as follows, "United Bonding Insurance Company,

who wrote a bond for defendant on June 27, 1962, has given notice that they are withdrawing from the bond. A new bond was executed by defendant on the afternoon of October 6th, as a substitute for and in lieu of his previous bond. A representative of the United Bonding Insurance Company proposed surrendering defendant to Tom Grace, Deputy Marshal, who was on hand; but defendant was at the time in jail as a state prisoner. The new bond, which was forwarded to the Clerk with this report was accepted by me as a substitute for the previous bond."

Signed United States Commissioner.

The next entry which I will read to you on the docket sheet is October 19, 1962, "Filing motion of United Bonding Insurance Company to terminate and cancel bond executed on June 27, 1962, wherein mover was surety and order E. G. W.," the district judge, "Granting same. Issuing notice and entry."

The next entry is October 31st, 1962.

End 15b
16 fls

"Filing motion of United States Attorney to continue to December 7, 1962, the hearing set for November 2, 1962, and order of E. G. W., District Judge, granting the same entered on October 31, 1962, and issuing the notice."

The next docket entry is December 7, 1962, "Filing motion of United States Attorney to continue for reassignment. Hearing set for December 7 and order E. G. W., granting same, issuing notice."

Now, attached to the certified entries are the three motions for continuance made on behalf of the United States to continue the case of United States of America versus Edward Grady Partin each of which motions were entered and read to you by me from the docket sheet.

The last of these being the one which continued it on December 7, I will read the last paragraph.

This is the motion for continuance of the United States.

"On further suggesting to the Court that the heavy trial calendar of cases pending in this office referred to in the government's prior motion for continuance, particularly in view of the fact that there is presently sitting in New Orleans a visiting judge, the Honorable John C. Bowen of Seattle, Washington, causes the government to require additional time within which to prepare and file proper opposition to motions filed on behalf of defendant.

"Therefore, the government moves the Court for an order to continue the hearing on motions filed herein by the defendant to be reassigned."

Then the judge enters his order.

And the docket entries themselves of the case entitled United States versus Edward Grady Partin shows the last entry on the sheet to be March 29, 1963, where the transcript of proceedings were filed. There has been no further entries on the docket.

THE COURT: All right. Call your next witness.

MR. HAGGERTY: May it please the Court, at this time will the Court if he is so disposed, make a ruling on my motion of this morning under the case of Brady versus Maryland?

THE COURT: Yes, sir, I believe that motion should be overruled.

MR. SILETS: Your Honor, now I have a matter which I think might be taken up out of the presence of the jury. Or I could approach the bench with counsel.

THE COURT: Well, if it's something brief, yes. Let's approach the bench in order to save the inconvenience.

MR. SILETS: May the reporter approach the bench also? I would like it in the record.

THE COURT: I will allow you to put it in the record at a recess.

OFFICER SERTEL: Court is still in session.

THE COURT: All right. Any further witnesses for the defense?

MR. BRANSTETTER: May it please the Court, there will be a number of motions I think at this time. Does the government have rebuttal proof?

MR. NEAL: Yes.

THE COURT: Are there any further witnesses for the defense?

MR. HAGGERTY: No further witnesses, your Honor.

THE COURT: All right. Then the defense rests as to all defendants?

MR. HAGGERTY: No, the defense does not rest until it makes its necessary motions before resting.

THE COURT: All right. Anything further?

MR. NEAL: The government has rebuttal, your Honor. Some witnesses.

THE COURT: All right, are we ready to proceed with the rebuttal?

MR. SILETS: Before that, your Honor, I think we would like to enter our motions.

THE COURT: All right, ladies and gentlemen, we will excuse you at this time. At this time I believe I'll just excuse the jury until 1:30. Be back at 1:30. At the same time observe the instructions I have given you as to not

discussing the case or allow anyone to talk with you about it.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. SILETS: Your Honor, now that the jury has retired, I would like to state for the record my motion to establish and prove the matters of the current surveillance of the respective defendants and their counsel for the purpose of establishing that the government does not have any confidence in its current case and must of necessity keep the defendants and counsel under surveillance and this is indicative of the government's weakness in its case.

THE COURT: All right. As indicated I think that motion should be overruled. That request should be overruled.

MR. BRANSTETTER: May it please the Court, that would be for all defendants with reference to this?

THE COURT: Yes, with reference to all defendants and the same ruling as to all defendants.

MR. BRANSTETTER: May it please the Court, at this time I would like to move for a severance on behalf of Defendant Campbell because of the prejudicial spilling over or type of testimony that has been inserted in the record here that cannot under any legal theory of the prosecution be

admissible as against the Defendant Campbell.

There is also a part of this motion adopted at this time, previous motions with reference to misjoinder under the rules of procedure and we think at this time that a severance would be appropriate and proper remedy insofar as Defendant Campbell is concerned.

THE COURT: All right. Is that motion joined in by all defendants?

MR. HAGGERTY: Joined in by the Defendant Hoffa.

MR. ALEXANDER: Yes, your Honor.

THE COURT: Allow it to be joined in by all defendants.

MR. BRANSTETTER: May we state, may it please the Court, appropriately for the record, the reasons briefly assigned for the severance are reiterated without necessity of my restating them?

THE COURT: I believe those motions should be overruled, each motion should be overruled as to each defendant.

MR. SILETS: Your Honor, on behalf of Defendant Dorfman, I move for the entry of a judgment of acquittal at the close of the defense case and without specifying each of the matters I have stated before without limiting myself for the moment I think it is sufficient for me to say to the Court that the evidence that has been adduced so far in this

case fails in all respects to prove an offense against the laws of the United States. That the government has failed in its proof.

I have a written motion to that effect, a copy of which I am now serving on the prosecution.

THE COURT: All right. I believe that motion should be overruled.

MR. BERKE: We have a similar motion, if your Honor please.

THE COURT: All right, allow the similar motion by the Defendant Mr. Hoffa, allow that to be overruled.

MR. BROWN: The Defendant King files the same motion.

THE COURT: Similar motion filed on behalf of Mr. King.

MR. BROWN: Yes, sir.

MR. SCHIFFER: Mr. Tweel and Mr. Parks, your Honor.

THE COURT: Mr. Tweel and Mr. Parks. And allow each of those motions to be overruled.

MR. BRANSTETTER: May it please the Court, I have a motion before I file my motion for judgment of acquittal, I have not filed such a motion as at this time.

THE COURT: All right.

MR. BRANSTETTER: I would like to move at this

time, may it please the Court, that all evidence dealing with the recording of telephone conversations and all evidence of the Witness Partin be suppressed at this time.

End 16
17 fls

THE COURT: All right.

THE COURT: All right. I believe that motion should be overruled.

MR. BRANSTETTER: We would then request at this time a hearing, further hearing on the suppression of that testimony prior to the government going into rebuttal.

MR. SILETS: Your Honor, may I adopt that motion but go one step further. Under the theory of Copeland versus United States I move that the Court now suppress all leads and all evidence arising from leads obtained illegally in violation of the constitution.

THE COURT: All right.

MR. SCHIFFER: The defendant Parks adopts both motions.

MR. SILETS: If the Court please, I think we should at this time have the hearing on this motion to suppress.

THE COURT: Well, the request for the hearing at this time on motion to suppress shall be denied.

MR. BROWN: Show as to all defendants.

THE COURT: The hearing will be conducted in the method indicated by the court.

MR. HAGGERTY: The defendant Hoffa joins in the motion for the reasons advanced by Mr. Branstetter and Mr. Silets.

MR. SILETS: There is one other thing.

MR. HAGGERTY: And Mr. Schiffer.

THE COURT: Just a moment. Allow that to be overruled.

MR. SILETS: There is one other matter with respect to the suppression of the evidence of Mr. Partin. In addition there have been several motions for suppression, one of which the Court will recall was based on the fact that Mr. Partin was placed in the midst of the defense in the Nashville case for the purpose of obtaining information for the use of prosecution in the Nashville case.

To recall the Court's attention at Page 3212 the Court stated, "I would further find that the government did not place this witness Mr. Partim in the defendants midst or have anything to do with him, with placing him in their midst, rather that he was knowingly and willingly placed in their midst by one of the defendants."

Now, in light of the proof which has been adduced on the defense it is clearly and palpably false that this was a placing of Mr. Partin in the midst of the defense by Mr. Hoffa, as a matter of fact, the two documents read to the jury proved to the contrary.

Now, further I state that Mr. Partin, on Page 3019, stated, "Question: What were you doing there for two and a half months?" I believe, I think I was the one who was asking the question.

The answer was: "I was invited there by Mr. Hoffa."

It is obvious, Your Honor, that Mr. Hoffa by review of these recorded conversations, which has been in the possession of the government, indicate beyond any doubt, and I don't suggest that it is our burden of proof beyond any doubt, it is the burden of the government on a motion to suppress. We only need raise a logical inference and I think it is certainly true here that that has been raised. It is certainly obvious that Mr. Partin was never invited by Mr. Hoffa. He was sent there by the government, it was initiated by the government. They suggested him making the phone calls. He made the calls. He asked himself to be invited and on that basis, Your Honor, I suggest that the Court's original ruling appearing at 3212 on our motion to suppress on the issue of whether Mr. Partin was there to obtain information or whether he was in fact invited by Mr. Hoffa should be overturned by the Court and the Court should at this time suppress the evidence obtained from Mr. Partin for the very reasons which we had cited to the Court previously and if the Court has any doubt at this moment they should have another hearing on that issue.

THE COURT: I believe that should be overruled.

MR. BRANSTETTER: May it please the Court, in order that that matter may be squarely presented to the Court on behalf of the Defendant Campbell, the Court would recall that I argued at some length with reference to that particular

point wherein it was held specifically illegally obtained evidence could not be used for any purpose whatsoever in any proceeding at any time. On the basis of that we submit that any evidence flowing from the illegal placing of Partin in the midst of this other proceeding would not be admissible in this proceeding.

THE COURT: All right. I believe the motion should be overruled.

MR. SCHIFFER: May we have that for all defendants, Your Honor?

THE COURT: Yes, sir, it may stand for all defendants and overruled as to all defendants.

MR. SILETS: Your Honor, I have just been shown a copy of Mr. Walter Sheridan's testimony on this motion to suppress and if the Court would consider this before ruling on my renewal of the motion this question and answer was given at Page 3145 or 46, and I believe again I was inquiring of Mr. Sheridan. "Question: Did the fact that he was furnishing," he being Partin, "was furnishing information to you and the Department of Justice, to your knowledge was that a factor in his remaining in Nashville?"

"Answer: I am sure it had some bearing."

Now, Your Honor, it was obvious from the inquiry of Mr. Sheridan that Mr. Sheridan left the impression, clear impression, that the only reason he was staying in Nashville

was to furnish this information to the government, and, Your Honor, I again urge upon the Court that in fact Mr. Partin was there not at the insistence of any of the defendants but at the insistence of the government.

THE COURT: All right. I believe the motion should be overruled.

MR. BRANSTETTER: May it please the Court, I had handed up a motion for judgment of acquittal on behalf of the Defendant Campbell. I do not care to argue it at length. I would like to read a part of Rule 29 to the court at this time.

17A

THE COURT: Which motion is this?

MR. BRANSTETTER: This is now the motion for judgment of acquittal on behalf of the Defendant Campbell.

THE COURT: All right.

MR.BRANSTETTER: The matters I would adopt here at this time, the law and the memoranda previously filed with the court at the conclusion of the proof on the part of the government, and also referred to Rule 29 dealing with motions for acquittal.

The Court on motion of a defendant or of its own motions shall order the entry of judgment of acquittal of one or more offenses charged in the indictment or information after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or

offenses.

Now, at the conclusion of the proof the defendants, although in my studied judgment there was no evidence on the part of the government that could conceivably be reasonably asserted as sufficient in type, quantity or otherwise to sustain a conviction, nonetheless, evidence was introduced on behalf of the Defendant Campbell that did not in any wise do anything other than show that no offense had been proven or could be established.

I respectfully state to the Court at this time that the Court should of its own motion dismiss Count 3 as to the Defendant Campbell.

THE COURT: I believe that motion should be overruled. All right. With regard to the offer of proof on Mrs. Jean Partin filed February 25th, it is the Court's opinion that the offer is not proper to be filed and that the matters therein are not relevant, material and competent and should not be allowed.

MR. SILETS: The offer is filed, though, is it not, Your Honor?

THE COURT: Yes, the offer is filed, yes.

MR. NEAL: May it please the Court, while the jury is out--

MR. DALE: Do you want to give that an exhibit number?

THE COURT: Yes. May we give those exhibit numbers? With regard to Mr. Bloomenstiel the exhibit number for identification.

MR. DALE: 233.

(The offer of proof of Mr. Bloomenstiel was marked Exhibit No. 233 for identification only.)

MR. HAGGERTY: Do I understand that you have overruled the motion for acquittal as concerns all parties?

THE COURT: Yes.

MR. HAGGERTY: There is one other thing.

THE COURT: Just one moment, Mr. Haggerty, before you proceed. Let's get the record correct on these, on the offer of proof. The proffer of Mrs. Jean Partin will be Exhibit No. 234 for identification.

MR. DALE: Yes.

(The proffer of proof of Mrs. Martin referred to above was marked Exhibit No. 234 for identification only.)

THE COURT: Now, Mr. Haggerty, the Court will recognize you next.

MR. HAGGERTY: In addition, Your Honor, in reference to the motion that was made by Mr. Silets, in reference to Your Honor's correction or change of Your Honor's statement on Page 3212 on the motion to suppress, if the record is not clear the Defendant Hoffa joins in that motion for the same reasons.

THE COURT: All right. Allow it to be overruled. All right. Any other matters at this time?

MR. NEAL: Just a matter while the jury is out. Our first two witnesses will relate to statements made to them by the Defendants Tweel or the Defendant Tweel and the Defendants Parks. Their statements are admissible, number one, for impeachment as prior inconsistent statements.

However, the point I want to bring out, Your Honor, is that they are also admissible as false exculpatory statements or as evidence of false exculpatory statements but they are admissible only as to the individual defendants so making the statement.

MR. SILETS: Your Honor---, are you finished, Mr. Neal?

MR. NEAL: And each of the defendants were asked about the statements. We can have, we will have the page references, YourHonor, at the time we put on the proof.

MR. SCHIFFER: Well, Your Honor, at this time on behalf of Mr. Parks I should like to have those references pointed out now so we know what issues we have to meet.

Now, I want to point out to the court in view of Mr. Neal's statements any evidence he wants to produce, supposedly made or allegedly made on a date after the dates called for in this indictment, the specific dates from October 22nd to a date in December, certainly cannot be

introduced against the Defendant Parks at this time and we would have to qualify what he calls these statements supposedly made by Mr. Parks as coming within the confines of the dates set forth in the indictment, Your Honor, not later.

THE COURT: All right.

MR. SCHIFFER: Let him qualify it now, Your Honor, so we should not get into a conflict before the jury. It is just as distasteful to me as it is to Your Honor.

THE COURT: All right. Yes,Mr, Silets.

MR. SILETS: No, I just wanted to point out this one other thing to the Court, I am not sure Mr. Neal is finished with the offer of proof and perhaps the best thing would be to wait until he is finished.

MR. NEAL: It is not an offer of proof. I wanted to point out that what we are going to do with our first two witnesses, the Court might wat to consider it, it's clearly admissible as to impeachment.

THE COURT: What do you say about their request for the citation in the record so we can see what it is.

MR. NEAL: I believe we could give it to them over the lunch period. I think we have it, I don't have it right now but I think we could point it out to them.

MR. BERKE: Let's do that before the jury comes back.

MR. NEAL: I have no objection to doing it, it

would be clearly admissible as to impeachment and as to the particular defendants regardless of when it's said as to false exculpatory statements.

MR. ALEXANDER: If Your Honor please, I think I know the testimony that Mr. Neal is talking about and I don't think there was any foundation laid for this type of testimony.

MR. HOOKER: Oh, yes, if Your Honor please, in the cross examination of both of these defendants I read from the FBI statements and that's what we expect to prove.

MR. SCHIFFER: Well, Your Honor, unless there is a foundation made on the cross examination, of course, they would have no right, but incidentally, suppose that even if it was true, everything he said as to an FBI statement, isn't the prosecution finally going to be bound by the rules? Must they not first show to the satisfaction of the Court before it is even introduced before the jury that the dates within which the statements are allegedly made by the defendant Parks fall within the dates set forth in the indictment?

Now, they drew the indictment for the Grand Jury, they presented everything to the Grand Jury, they fixed the dates, Your Honor. Now, as you read the indictment, October, November and December of 1962, and they certainly should be prohibited now from coming in and showing any kind of a statement, let us assume, in the year 1963 or 1964. Whatever

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is sauce for the goose is sauce for the gander, too.

We have been precluded time and again from cross examining witnesses before the government on that very specific issue. Now the government wants to make out its proof, and they call this proper rebuttal, then they must come within the confines of the indictment they themselves drew and so we ask at this time, Your Honor, to prevent later confusion and argument for them to relate to the Court with these statements within that period mentioned in the indictment because if they are not, so far as Count 3 is concerned, we claim that it is clearly inadmissible as far as Parks is concerned.

MR. SILETS: Your Honor, may I say to the Court that it might appear from what Mr. Alexander indicates it is the fact that the matters to be rebutted are in fact collateral matters.

Now, the cases are such that if collateral matters are elicited by cross examination by the defense witnesses that they cannot be rebutted.

Now, if the Court would like to look at some cases on this I cite to the Court Goodman versus United States, a Seventh Circuit case, it's my circuit, 39 Fed. 2d, 524; Harpen versus United States 260 Fed. 2d 649, a Sixth Circuit case, and McEwan versus United States in 296 Fed. 2d, 480, a Ninth Circuit Case, and Beaver versus United States, 282

17-12

Fed. 2d, a second Circuit case.

THE COURT: All right.

MR. BRANSTETTER: I might add to that, may it please the Court, Mr. Neal is now taking the position exactly contrary to what he took previously with reference to collateral matters and the brief has been handed to the Court and the Court held us to it and ruled with Mr. Neal.

End 17 & A

17B fol.

TK 17B
EW 1

MR. NEAL: These are not collateral matters, your Honor, they are matters for which we laid a definite and specific foundation and for which we will cite record pages in the transcript where the witness, the defendants, were asked if they had made these statements to certain people.

Now, these, as I say, are admissible to impeach the witnesses as prior inconsistent statements, however, your Honor, they are also admissible as substantive evidence limited to the particular people who made the statement. We don't contend that a statement made here by Mr. Tweel in January of '63, for example, to FBI agents is in furtherance of the conspiracy and, therefore, admissible against the other defendants. However, a statement by the Witness Tweel, which is relevant, is admissible as to the Defendant Tweel and it makes no difference and we would have--we have plenty of cases to cite your Honor, but I am sure your Honor is aware of it insofar as he is concerned the admission against interest, or however you want to phrase it, it is admissible as far as he is concerned. It is admissible, No. 1, as impeachment because we have laid the foundation and your Honor will see it is certainly not a collateral matter, it is admissible as to impeachment and, No. 2, it's admissible as to the particular declarant as an admission.

E[illegible] Tk 17B
T[illegible]18 fls.

MR. SCHIFFER: Well, it is evident now then by Mr. Neal's statement of the supposed clarification of his position now, No. 1, what he is going to attempt to do in rebuttal, your Honor, is introduce evidence in chief. He had his opportunity to put his witnesses on the stand. He had his full opportunity to present his entire evidence insofar as they supported the alleged count.

Now, he says, no, we are going to put it on in rebuttal. That is, in fact, what he is saying and we maintain for the other reasons already advanced, your Honor, that he is prohibited from putting evidence on in chief which he had an opportunity to put on and he had no restrictions as against putting it on and neglected to put on.

And he cannot in rebuttal come out with evidence in chief.

MR. SILETS: Your Honor, I just have three things to say. First, I have consistently from the beginning of this case tried to urge upon the Court this is not a conspiracy case. No matter what the government says, Judge Gray on my motion in my argument severed the first count. There is no conspiracy.

Second, Mr. Neal, well, I should say the grand jury has joined all of these defendants together. We are being tried together. Not a conspiracy. All of this evidence has gone in each to the other until this hodgepodge

has gone to the jury until they cannot in their own mind and no reasonable man in his own mind can distinguish what has been admitted as to one and not to the other.

And to further this hodgepodge, we are going to go now according to Mr. Neal and insert matters pertaining to Mr. Tweel exclusively to Mr. Tweel.

I assume the Court would then say to the jury, disregard it as to everyone else. It is inconceivable that the jury can do that. The only thing that we can do in that respect, if the government is going to persist in that, please let us have a separate trial. Give us a separate trial so that the jury can distinguish these entire matters as against Mr. Parks and as against Mr. Hoffa.

But I don't want them considering that against Mr. Dorfman because Dorfman and Tweel are joined in the same count and now the government says we are going to bring this in on rebuttal but we don't want the jury to consider it against Dorfman or Hoffa in Count 4 but only against Tweel. It is inconceivable. Judge Learned Hand said it is inconceivable. All of the jurists have said it is inconceivable.

Now, if the government wants to persist in that under the theory of Barton vs. United States, which I have cited over and over again, and the cases following that line of thought this Court must grant us a severance.

Now, the third of my points is this, we have

had throughout the defense, we have had to bring in our witnesses and have a voir dire examination to ascertain whether the matter was collateral or not. Now, if this is a collateral matter then I suggest to the Court it is not proper rebuttal. Let us have a voir dire.

MR. GRADY: Your Honor, we would like specifically to move the Court to allow us a voir dire on this proposition because--

THE COURT: (Interposing) Well, that seems--that would seem to be a reasonable request. So the Court can see this matter.

MR. BROWN: Your Honor, on behalf of the Defendant King--

THE COURT: Gentlemen, there is too much conversation going on in the courtroom.

MR. BROWN: Your Honor, we join in Mr. Silets' motion for a severance at this time because we do not believe the testimony introduced by the government as to what they call rebuttal, singling out any defendant, can be brought in without casting some inference or detriment to the other defendants and we believe that, of course, that was the government's purpose in having us all here at one time. We have asked for a severance since the start of this trial and this just bears out our position over here.

THE COURT: In order, you are moving for a severance on the basis of what might or might not happen in the future?

MR. BROWN: That is right. It has come out. Doesn't help much, your Honor, after it gets in the record or before the jury, that is what happened so far in this thing, been statements injected by government counsel that are detrimental to all defendants whether he applied it particularly to the one or not.

THE COURT: Well, I think the motion should be overruled.

MR. SCHIFFER: May we have that for all defendants on the record, your Honor?

THE COURT: Yes, sir.

MR. NEAL: I want to give your Honor some cases that your Honor might want to look at.

Statement made by a defendant, for example, this is not after the arrest in this particular case, but exculpatory statements made by a defendant to officers after his arrest when shown to be false are circumstantial evidence of guilty conscienceness and have independent probative force.

United States vs. Smollen, 182 F. 2d 782, at Page 785 and 786. Second Circuit, 1950.

United States versus Montalvo, (Spelling) M-o-n-t-a-l-v-o. Can Your Honor hear me?

THE COURT: Yes.

MR. NEAL: 271 F. 2d 922 and 927. Second Circuit, 1959. Certiorari denied 361 U. S. 961.

So, Your Honor, based on those cases and other cases, there are other cases, Your Honor, United States versus Farina (Spelling) F-a-r-i-n-a, 218 F. 2d 62 and 63. Which holds in essence that the exculpatory statements subsequently proven false consisted in denial by the defendant he knew his partner in crime. Part of the testimony we will put on, for example, is denial by Thomas Ewing Parks that he had been in contact with Campbell for several years.

MR. SCHIFFER: That is not the testimony. Let's quote the testimony correctly. He said 1961. We are talking about 1962. He didn't say several years. He said 1961. He said that Mr. Campbell came throught the city of Nashville on his way to Tent City. He didn't say several years.

MR.NEAL: May it please the Court, this is an example of the testimony we will give. The Defendant Campbell took the stand and testified about Parks. He had even and talked to Parks in Louisville once and maybe twice in October and November and December, 1962.

MR. SCHIFFER: Objected to, Your Honor. Now he says he is quoting the testimony but he is misquoting the

record to Your Honor. The testimony was, did he see him in Nashville? When did he last see him in Nashville? And he said 1961 when he went to Tent City. Now he speaks of different testimony, different city. This is how he tries to confuse the issue with Your Honor.

MR. NEAL: Trying to help the Court.

THE COURT: Let's let one speak at a time, please.

MR. NEAL: Mr. Campbell testified and I don't think Mr. Branstetter will dispute this, that he saw and talked to Mr. Parks in Louisville during the months of October and November and December 1962. Pardon me? Once or twice.

MR. HOOKER: Once or twice.

MR. NEAL: And that he was in contact, in communication by telephonic communication with the Defendant Parks during these months. I think he said he claims about his sister, Audrey. Well, we will show that the Defendant Parks said in December, 1962, that he had not been in contact with his uncle, Larry Campbell, in several years. Now, Your Honor, we have giveh you--

THE COURT: (Interposing) Do you mean Larry Parks? Uncle Larry Parks?

MR. NEAL: Uncle Larry Campbell? Pardon me.

THE COURT: Who is his uncle Larry Campbell?

MR. NEAL: I mean his nephew, Larry Campbell.

The Defendant Parks testified that he, or testimony will be, that the Defendant Parks said in December, 1962 that he had not been in contact with his nephew, Larry Campbell in several years.

Now, Larry Campbell testified and we have put on evidence to show ourselves that Parks was in contact almost constantly by telephonic communication with Larry Campbell and Larry Campbell admitted that or admitted that there was telephonic communication.

Larry Campbell also admitted that he had--, that Parks was in Louisville and he also talked to him once or twice in October or November, 1962. Only a month or two before Campbell made the statement. I mean, before Parks made the statement.

So that statement, Your Honor, will, for example, we asked Parks about that on the stand, we will give the citation. He denied making it. That statement, this is an example of what we will show that statement, for example, is admissible on two bases. One, the basis that I just gave you that it is the cases I just gave you that it is a false, exculpatory statement. The jury may show, find showing consciousness of guilt. These are the indications I have given you.

Substantive proof, Your Honor. Now it is also proper to bring out to impeach the witness because it is a

prior inconsistent statement on a matter that is not collateral. This is the very heart of the lawsuit, Your Honor.

So, it is admissible on two bases. Thatis just an example of the testimony I wanted to advise Your Honor of.

MR. BRANSTETTER: If this is an example, may it please the Court, then it is clearly not admissible. One, it is not exculpatory in character. Two, it is being offered in rebuttal and not direct evidence.

Three, Parks did not testify as asserted. He was asked a question from an FBI report and he said he did not sign the statement. He is not sure what it contained. And he is not going to say what is in it. I think you will find that to be directly what the record shows.

I think you will also find that Parks stated he had been in contact and had had relatives die in Louisville during this very period.

May it please the Court, this is the very type of thing that the government should not be permitted to introduce in rebuttal. It is highly prejuducial. And there is no theory under the law of under which it is admissible in rebuttal.

THE COURT: I might suggest this, I think Mr. Silets' suggestion there would be a voir dire on this is a more appropriate procedure.

MR. NEAL: We have no objection to that so the

Court can rule on it.

THE COURT: Rather than delay starting the trial at 1:30 and delay the jury, if the government could not proceed to some other matter and take this matter up at a time when it would not delay the jury? Could that be done?

End 18A
Wk 19 fol.

MR. NEAL: I wish we could, your Honor, but here is the situation we found ourselves in. These witnesses will be agents of the Federal Bureau of Investigation. They are easy for us to get here. We have had them here for several days because we couldn't anticipate when the defense would close.

THE COURT: We will take it up at --

MR. NEAL: (Interposing) But we don't have other witnesses here, your Honor, because we had just notified them last night to get here as quick as they can.

Now, we had no idea, your Honor will remember I asked several times if we couldn't get an idea.

MR. SILETS: Your Honor, since we are going to talk about getting an idea so we will know how we are going to proceed could I inquire of the government how long they will take with the government rebuttal so I can prepare some of the things that I have to do, such as, for instance, my argument.

MR. NEAL: Yes, I think by tomorrow evening we will conclude with all of the proof is the best idea I can give.

MR. SCHIFFER: Of course, then there may be some surrebuttal.

MR. NEAL: I never heard of surrebuttal in a criminal case.

MR. SCHIFFER: Well, assuming, your Honor, that the defense feels that some of the witnesses, like some FBI agent who wants to get up there and talk about Parks are not telling the truth, now, is Mr. Neal saying we will have no opportunity to rebut what they have to say on the stand, that we must finally accept what a new witness, who should have testified in chief, now comes in on rebuttal and that we will not be permitted then to refute what that man has to say on the stand, your Honor, when it comes in for the time for supposed rebuttal?

I should like to hear what Mr. Neal says about the legal proposition because it may be, and this is going to be a new way of limiting a defendant from bringing out the whole truth.

MR. HAGGERTY: We have authority to present on our right to surrebuttal, your Honor, when the time comes.

THE COURT: All right. If there is nothing further at this time, let's adjourn court until 1:30.

Just a moment before we adjourn. May I suggest to the marshal that you have the jury report back at 1:45 rather than at 1:30.

MR. SILETS: Will court reconvene at 1:45?

THE COURT: No, we will reconvene at 1:30 and take up any matter of voir dire.

All right, let's adjourn court.

(Thereupon, at 12:10 o'clock, p.m., court was adjourned for the noon recess until 1:30 o'clock, p.m.)

E 19
20 fls

AFTERNOON SESSION

1:30 O'Clock P. M.
February 26, 1964

(Thereupon, pursuant to adjourmment for the noon recess, court was in session.)

(The absence of the jury of 12 and 4 alternates the following proceedings were had, to-wit:)

MR. HAGGERTY: May I address the Court?

THE COURT: Yes, sir.

MR. HAGGERTY:: Your Honor, Mr. Hoffa had a conference telephone call which will run until about two o'clock. He has waived his presence. And has authorized me to so represent to the Court.

THE COURT: All right.

MR. NEAL: Ready for voir dire, Your Honor?

THE COURT: Yes,sir.

MR. NEAL: Before we do it, may I cite the Court this case on this point that this is the only proper time we could bring on the witnesses? United States versus Montgomery, 126 Fed. 2d 151. It says this, Your Honor, as to the second contention the questions put to Leo Deloney who was called in rebuttal with respect to statements which Montgomery, that is the defendant, in his own behalf had denied making. They go on to say, I don't purport to be reading consistently, but go on to say furthermore the testimony of

Leo Deloney which was offered but denied, which was offered for the purpose of contradicting the defendant's testimony in his own behalf never did he waive evidentuary until rebuttal.

This was, therefore, not even subject to discretionary exclusion with the trial court being competent, relevant, material, and having been proper and timely.

THE COURT: Well, bring your witness on.

MR. NEAL: Very well, did Your Honor get the citation of that?

THE COURT: Yes, sir.

MR. NEAL: Mr. William Sheets.

MR. ALEXANDER: May it please the Court, Mr. Schiffer is not here. This will involve his client, I assume, and he should be here.

THE COURT: Yes. All right, let's proceed. All the attorneys are present.

MR. SCHIFFER: Your Honor, may I at this time hand up to the Court a motion relating to the FBI statements of Fields and Walker which Your Honor asked for?

THE COURT: Yes, sir.

MR. SCHIFFER: Memorandum in support of the defendants position with reference to the Fifth Amendment privilege by one co-defendant which would be prejudicial to the others.

MR. NEAL: Are you ready, Mr. Schiffer?

MR. SCHIFFER: Yes, sir.

WILLIAM L. SHEETS,

a witness called for voir dire examination, was previously duly sworn, and was examined as follows:

VOIR DIRE EXAMINATION

BY MR. NEAL:

Q You are Mr. Bill Sheets of the Federal Bureau of Investigation?

A Yes, sir.

Q You are assigned to the Nashville office?

A Yes, sir.

Q And you were so assigned in the year 1962?

A Yes, sir.

Q During the year 1963?

A Yes, sir.

Q Would you speak up so all the people over here can hear you?

A Pardon me.

Q Mr. Sheets, did you have occasion to interview-- By the way, do you know the Defendant Nicholas J. Tweel?

A Yes, sir.

Q Will you point him out, please?

A He is sitting second from the end here.

Q Did you have occasion to interview Mr. Tweel on or about February 1, 1963?

A Yes, sir.

Q Who else was present during that interview?

A Special Agents Norwood and Johnson.

Q They are also Federal Bureau of Investigation agents?

A Yes, sir.

Q The three of you and Mr. Tweel. Is that right?

A Yes, sir.

Q Did you warn Mr. Tweel that he had a right to refuse to make any statement?

A I did.

Q And did you warn Mr. Tweel that any statement he made could be used against him?

A Yes, sir.

Q Did you warn him--, did you warn him that he had a right to consult an attorney?

A Yes, sir.

Q Now, during this interview did Mr. Tweel make any statement with respect to a telephone call received from Mr. Allen Dorfman after the trial started in Nashville?

A He did.

End 20
Tk 21 fol.

Q What was that statement, sir, in substance?

A He said that Mr. Dorfman had called him from Nashville and asked him if he knew anyone on the jury in Nashville and he, I believe he told him--he told him that in order to be polite I may have indicated to Mr. Dorfman that I would help.

Q Help him?

A Would help him.

Q Did he say whether or not he had read--that Dorfman had read a jury list to him over the telephone?

A He said that Mr. Dorfman--he did not believe that Mr. Dorfman read to him a list of the jury panel but he may have.

Q He did not believe he did but he may have?

A Yes, sir.

MR. SCHIFFER: Well, your Honor, at this point I seek to object for the reasons--

THE COURT: (Interposing) Well, let's proceed. This is voir dire, Mr. Schiffer.

MR. SCHIFFER: I see. All right.

MR. NEAL: All right, sir. Now, your Honor, there is another part to this witness but I'd like to call the Court's attention right now to the pages of the transcript, Transcript Pages 5479, 5480 and then on over to Page 5490, 5489 and 5490, your Honor, he was asked if he made these

statements to the agents of the Federal Bureau of Investigation and he denied making the statements. Excuse me, on 5482 he was given the approximate date of the statement, at 5486 that was corrected to be February 1, the exact date of the statement.

Does your Honor have the transcript citation?

THE COURT: Yes.

MR. NEAL: All right.

BY MR. NEAL:

Q Now, sir, did you have occasion on or around December 12, 1962, to interview--strike that--do you know the Defendant Thomas Parks?

A Yes, I do.

Q Would you point him out?

A He is sitting over here with his chin in his hand.

Q All right, sir. Now, did you have occasion on or about December 12, 1962, to interview the Defendant Parks?

A I did.

Q Who else was present?

A Special Agent Norwood.

Q All right, sir. And did you warn Mr. Parks of his rights not to make a statement?

A No, sir.

Q You did not?

A No, sir.

Q Did you warn him he had a right to consult an attorney?

A No, sir.

MR. SCHIFFER: Objected to, your Honor. At this point anything now from now on would be clearly incompetent.

MR. NEAL: There is no obligation to do that.

MR. SCHIFFER: Well, he is an agent for the government investigating a crime, they bring him to the grand jury knowing he is going to be a potential defendant and I maintain, your Honor, most respectfully that he had to put the witness--advise him of his constitutional rights.

THE COURT: Again since we are in voir dire can we proceed?

MR. SCHIFFER: Except for one further thing, if I may draw your Honor's attention to it at this time as to what in the transcript of this trial is Mr. Neal referring to as to what he wants to controvert? I understand from his statement before--

THE COURT: (Interposing) I assume we will get to that.

MR. NEAL: I have it right here, I will give it to him.

THE COURT: Proceed. This is voir dire.

BY MR. NEAL:

Q Did you threaten Mr. Parks in any way?

A No, sir.

Q Pardon me?

A No, sir.

Q Did you just ask him questions?

A Yes, sir.

Q In a polite manner?

A Yes, sir.

MR. SCHIFFER: Objected to, your Honor.

BY MR. NEAL:

Q All right. Now, did he say anything in that interview with respect to whether or not he had contacts with the Defendant Larry Campbell?

MR. SCHIFFER: Objected to, your Honor, because there is nothing in the transcript, Parks was never inquired of concerning that.

THE COURT: That's what we are attempting to find out, Mr. Schiffer. Just reserve these at this time.

A He said he had not seen or talked with Larry Campbell in approximately two years.

Q Had not seen or talked with Larry Campbell in approximately two years?

A Yes, sir.

Q That was on December 12, 1962?

A Yes, sir.

Q Did he say whether or not he had been in contact with--wait just a moment--say whether or not he knew Larry Campbell was in Louisville during October or November, 1962?

A He said that he did not know that he was in Louisville.

MR. NEAL: All right. Now, your Honor, Mr. Schiffer asked for the part that is in conflict, I point your Honor to Page 5992 and the following pages where the question is asked by Mr. Hooker, "All right. I want to ask you then in connection with an interview that the FBI had with you on December the 12th, 1962, Special Agent William L. Sheets and Francis Norwood, if you denied to these special agents that you had any contacts with or knew Larry Campbell or anyone connected with Larry Campbell and denied that Larry Campbell had recently been in Louisville?"

Mr. Schiffer objected to the form of the question, the Court overruled and Mr. Schiffer says, "First, it's presupposing a condition in the mind of the questioner," and so forth.

The answer, then the Court overruled the objection, the defendant says, "I don't recall even having a conversation with Mr. Sheets and Mr. Norwood concerning that." Page 5992.

THE COURT: All right. Is that all from this witness?

MR. NEAL: I believe that that is the substance

of the testimony that will be given by this witness and I might state, your Honor, this will also be the testimony given by the next witness, Mr. Norwood, however, we will have an additional question or two more from Mr. Norwood. Would you like to have him brought in?

THE COURT: Yes, let's take it all up at this time.

MR. NEAL: Excuse me. That is the offer of proof.

THE COURT: Well, that is the offer.

MR. GRADY: Your Honor, we feel the record has been misquoted to the Court.

THE COURT: I want to hear you on this but let's get this in so the Court will know what we are talking about before we argue.

MR. NEAL: I haven't purported to quote the record with respect to Mr. Tweel.

MR. GRADY: You made the statement that he has denied it and he hasn't denied it and if that's not a misquote I don't know what is.

End Tk 21
Tk 22 fls

MR. NEAL: Well, I will read it. On page 5459 with respect to Mr. Tweel the question was asked, "Let me ask you if approximately a week or ten days after your trip to Nashville --"

THE COURT: (Interposing) 5459?

MR. ALEXANDER: 5459 or 5479?

MR. NEAL: 5479. (Further reading.)

"You told the FBI agents that you received a telephone call from Mr. Allen Dorfman who you believed to be in Chicago and that Mr. Dorfman asked you if you knew anybody on the Hoffa jury in Nashville. You said you do not recall. You said you could not recall Dorfman reading any list of jury members but he may have, did you say that?

"Answer: No, sir, I don't believe I made that statement. I have no recollection of it."

Now, yes, I consider that to be a denial, your Honor. I don't know what else but even if he says he doesn't recollect it, we are entitled to prove it.

MR. ALEXANDER: Mr. Neal, read the full statement, there was another sentence prior to where you started reading.

THE COURT: Well, let's get this in the record so we will know what we are talking about.

THE CLERK: Have you been sworn?

THE WITNESS: Previously in the trial.

MR. NEAL: Your Honor, if the defense has no objection, I will lead this witness.

THE COURT: Yes, skip the formalities and proceed.

FRANCIS W. NORWOOD,

a witness called for voir dire, having previously been duly sworn, was examined and testified as follows:

VOIR DIRE EXAMINATION

BY MR. NEAL:

Q You are Mr. Norwood of the Federal Bureau of Investigation?

A That's right.

Q You have been stationed in Nashville, and you were stationed in Nashville in 1962 and '63?

A That's correct.

Q I believe you had an interview with the Defendant Nicholas J. Tweel on or about February 1, 1963?

A That's correct.

Q And at that time you were there with Mr. --, who were you there with?

A Mr. Sheets and Mr. Frank Johnson.

Q And Mr. Tweel?

A And Mr. Tweel, yes, sir.

Q Did you ask Mr. Tweel whether or not he had received a telephone call from the Defendant Dorfman approximately a week or ten days after his trip to Nashville and

whether during that telephone call --, that --, did Mr. Tweel --, did Mr. Tweel make any statement to you with respect to telephone call from Mr. Dorfman?

A Mr. Tweel discussed two telephone calls as I recall. One that he had made to Mr. Dorfman. And one that Mr. Dorfman had made to him, which was a week or ten days after he had seen Mr. Dorfman in Nashville.

Q That is what he is telling you now?

A Yes.

Q What did he say was the talk about over the telephone?

A Well, it would be --

Q (Interposing) Just the one Mr. Dorfman to Mr. Tweel. We will be limited to that.

A I see. He was questioned at this time to determine if Mr. Dorfman read a list of the jurors to him over the telephone. And he stated that he did not recall. That he may have.

Q Well, did he say that Dorfman had called him over the telephone about the Hoffa trial jury in Nashville? During this telephone call a week or ten days after the trial?

A Yes, sir.

Q Now, did he say that he may have --, that he may have given Mr. Dorfman any impression?

A Yes. He said that he in an effort to be polite

he may have given Mr. Dorfman the impression that he was going tc try to help him.

Q All right, sir. Now, did you participate in an interview of the Defendant Thomas Parks on or around December 12, 1962?

A Yes, I did.

Q At that time did you question --, did Mr. Parks make any statement to you about whether or not he had been in contact with his nephew, Larry Campbell?

A Yes, he did.

Q What did he say in this interview on December 12, 1962?

A Well, he said --

MR. HAGGERTY: (Interposing) Just a moment, your Honor, while I sat idly by on these leading questions, I understand the situation. Nevertheless, when we get to this, I think that we ought to proceed with more care and caution and even on a voir dire.

THE COURT: All right.

MR. NEAL: What did he say? What, if anything, did he say with respect to whether or not he had any contacts? I don't think that is a leading question. Doesn't suggest any answer.

THE COURT: Well, all right, proceed.

THE WITNESS: He was asked if he had had contact

with his nephew Mr. Parks. He stated --

BY MR. NEAL:

Q (Interposing) Mr. Parks was asked?

A Yes, Mr. Parks was asked if he had had contact with his nephew.

Q Nephew whom?

A Mr. Campbell.

Q All right, and he stated that he had not seen him or talked to him in approximately two years? And he said this on December 12, 1962?

A That's right.

Q Did he say whether or not --, did he say anything about whether or not he knew Larry Campbell was in Louisville during the months of October and November 1962?

A He stated that he had no information that he was in Louisville.

Q During those months?

A During those months.

Q Now, sir, I believe you testified that on the night of November 17, November 17, 1962, that you were in the vicinity of the Paschal residence in Woodbury, Tennessee?

A That's correct, I was.

Q Would you tell us why you were there?

A I was there because Mr. Walter Sheridan had previously advised me that he had information that Ewing King

was going to try to contact one of the husbands or a husband of one of the jurors on the trial.

Q What husband, what juror?

A That was the highway patrolman, Mr. Paschal, who lived at Woodbury.

Q And that is the reason you were in that vicinity?

A Yes, sir, I went up, Mr. King, so I was informed that night had been lost by the agents who had been surveilling him. And I went there into the Woodbury territory to see if I could locate him.

Q And you have previously testified as to what you saw?

A Yes, sir.

MR. NEAL: That would be our offer of proof, your Honor, with respect to the Witnesses Sheets and Norwood and --

THE COURT: (Interposing) Well, let me --, I think save a little bit of time on this, I think the last question would not be competent matter of Woodbury.

MR. NEAL: May I point out why the government thinks that is competent, your Honor? We think it is competent, we think it is important, and would like to point out why we think it is competent. It might -- your Honor, here is the basis --

THE COURT: (Interposing) Just a moment, let me think a moment. Well, the Court is unable to see anything --,

see how anything this witness was advised by Mr. Sheridan would be competent matter for rebuttal. I would sustain the objection to that. That is not competent question.

MR. NEAL: Maybe if the government could state its position on this it might --

THE COURT: (Interposing) State your position.

MR. NEAL: The position is this, your Honor, that Witness Partin's testimony was attacked as a recent fabrication. We are entitled to show that he had given this information to Mr. Sheridan and on that basis we had been able to observe an approach being made.

THE COURT: Well, I still think that should be eliminated. That is not proper, gentlemen, in rebuttal. All right.

End 22
23 fls

MR. BRANSTETTER: I assume the witness to be excused.

THE COURT: Yes.

(Witness excused.)

MR. BRANSTETTER: May it please the Court, I would address myself only to the question dealing with Parks, and I might state, may it please the Court, the law, as I understand it one, two, three, on impeaching a witness or a defendant as a witness on prior inconsistent statements, the law requires this, that it be a statement made at a previous time inconsistent with the position not taken in the trial by that particular individual. Number three, there must be a foundation laid by asking the witness whether or not he did make a certain statement reasonably identifying the time and the place in order that he may explain his answer if it is contradicted.

Fourthly, there must be an unequovical denial, the witness must state that he denies having made the prior statement.

Now, I think the Court will find that all of the cases hold substantially as I have said, at least if it is not, why, the law schools and others have been misteaching the law for a goodly number of years.

Now, on Parks here specifically is what was asked by Mr. Hooker.

"All right. I want to ask you then in connection with an interview that the FBI had with you on December the 12th, 1962, special agent William L. Sheets and Francis W. Norwood, if you denied to these special agents that you had any contact with your nephew, Larry Campbell, or anyone connected with Campbell, and denied that Larry Campbell had recently been in Louisville, Kentucky?"

The question is a proper question for foundation, with this I agree, with the laying of the foundation, but the answer does not comply with the rule.

There was an objection, it is unnecessary to read it, the Court overruled it, then another objection and the Court overruled it and then here is the answer:

"I don't recall even having a conversation with Mr. Sheets and Norwood concerning that."

There was no denial that such conversation took place. What do we rebut? We would be rebutting that he does not recall having any conversation.

Now, the law is clear, as I understand it, on this point. There must be an unequivocal denial of the alleged statement to bring this rule into play and I would agree, may it please the Court, if all the elements of this particular rule of evidence were met I would not fuss with the foundation having been laid on the rebuttal for it to be brought back in, but it was not laid, it was not answered

correctly. He did not deny it.

The only thing that could be rebutted would be that he would rebut that he doesn't recall it, so the only appropriate method of getting this evidence in, insofar as Count 3 is concerned, would very clearly be required for them to have produced these witnesses during the proof in chief and show that these statements were made.

It is not proper rebuttal. It's not proper as a foundation under the impeachment theory.

Now, I assert this very seriously to the Court as being the law clearly established.

Secondly, apart from the rule of laying the foundation, here we have multiple defendants, we have the Defendant Parks. The government admits that this evidence, if admissible at all, would be admissible only as to Parks. Now, it has been argued here many times, and the Court well knows that evidence that may be admissible as to one may not be distinguishable in the jury's mind later on, so as a matter of fair play and judicial procedure in the discretion of handling the overall concept of court procedure, the Court should not permit this type of testimony in rebuttal.

We respectfully submit that under the well established rules of law dealing with evidence, and I have listed them down one, two, three and you will find them in every text book just like I listed them, that if there is not

a denial of the statement there can be no one brought in to contradict it because you are not contradicting the statement, you are contradicting their memory as to whether or not it occurred.

THE COURT: Let's see. What was Mr. Schiffer going to address the Court--, all right, Mr. Grady.

MR. GRADY: On Mr. Tweel, yes, Your Honor.

THE COURT: All right.

MR. GRADY: Now, Your Honor, without reiterating what Mr. Branstetter said, which applies in a great regard to Mr. Tweel's situation, we have even a situation even more extreme here.

The few times that I had any great difference of opinion and made many objections to Mr. Hooker's testimony was about this very thing, at the time he was trying to get Mr. Tweel--, they were mixed up about whether this thing here that they are claiming as rebuttal was said in a private conversation in Nashville or over the telephone--, now, that is the only difference.

There has been no denial that the conversation took place. The only question was whether or not it was over the telephone ten days prior to the trial in Nashville or at the time that Mr. Tweel was in Nashville. That is the only difference. No denial of the conversation at all.

I refer Your Honor to Page 5479 of the record.

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THE COURT: Just one moment. Mr. Branstetter, I failed to ask you what page you were reading from in the transcript.

MR. BRANSTETTER: I was reading, may it please the Court, from Page 5992 and 5993.

THE COURT: All right.

MR. BRANSTETTER: Those are the specific pages referred to both by Mr. Neal and myself.

THE COURT: All right. All right, Mr. Grady, you are at Page 5479, Mr. Grady, is that correct?

MR. GRADY: Yes, Your Honor. We had numerous pages in the record before that about whether this conversation Mr. Hooker was asking about was a conversation in Nashville or a telephone conversation.

We objected strenuously because we felt he was switching the text out of context to determine which conversation it was and he finally got down to the telephone conversation that they claim it is today and on Page 5479, beginning with Line 17, "I would like to say the conversation as you say may have took place at Nashville where I testified that I was in the courtroom with Mr. Dorfman when I," and then he says, "Let me ask you approximately a week or ten days after your trip to Nashville you told the FBI agents that you received a telephone call from Mr. Allen Dorfman who you believed to be in Chicago and that Dorfman asked you

if you knew anybody on the Hoffa jury in Nashville and you said you do not recall. You said you could not recall Dorfman reading a list of jury members but he may have, did you say that?

"No, sir, I don't believe I made that statement. I have no recollection of it."

So the situation that we have here is that he has never denied making the statement. He says, "I have no recollection of telling the FBI agents that I made that statement in a telephone call. I made that statement in the courtroom in Nashville."

Now, that is how close it is. It doesn't go to his credibility because he has never denied the conversation which they are attempting to put in here to attack his credibility. He has merely denied that he said it took place personally with Dorfman rather than over the telephone and that is the only difference and we say it's not admissible in rebuttal.

The object of this, of course, is to attack his credibility, I assume; I can see no attack on his credibility there.

THE COURT: All right.

MR. NEAL: Your Honor, may I answer briefly these two?

THE COURT: Well, let's see what the other

defendants may have to say.

MR. SILETS: Your Honor, of course, I don't want to be repetitious and I will only state to the Court that I adopt the arguments of Mr. Gradyand the legal arguments as to this entire matter of Mr. Branstetter.

I also want to point out to the Court that in one of the cases cited by the government, which is United States versus Smollen, 182 Fed. 2d 782, with the question involved exculpatory statements, the Court, in reviewing that indicated that there the issue was whether the proveably false exculpatory statements could be introduced in the case in chief and the Court said there, "The testimony as to them is therefore admissible on the government's direct case, indeed in the only case which it has coming to our attention as being one in which the time of presentation of such evidence was questioned, it was the prosecution's failure to introduce it in its case in chief that it was assigned in error."

They cite Roberts versus State, 25 Delaware 385.

THE COURT: I recall reading that.

MR. SILETS: Yes, sir. Now, my point is this, if this has any probative value it should have been introduced in the case in chief and to introduce it now at this point, although the first argument we make is that it is not proper rebuttal, and in addition this should have, if at all, has been introduced in the case in chief and it is not proper

rebuttal and it is error to introduce it now.

Now, most importantly as to the Defendant Dorfman, we find here the very essence of what I have been asserting right along that if the government now seeks to introduce this for whatever purpose they assert as against the Defendant Tweel exclusively, the jury cannot but--, and that seems to be for impeachment of Mr. Tweel's testimony--, the jury cannot but accept this as probative evidence of the matters which should have been proven in the case in chief and if this is true then this is going to, even though it's put in against Mr. Tweel, it's going to spill over onto Mr. Dorfman and it's going to be accepted by the jury to prove in fact that Dorfman had called Tweel and said and asked him to do these things.

Now, the record as it stands now indicates that Mr. Tweel was of the impression that it was not a phone call but it was a discussion on or about the 22nd of October.

End 23
Tk 24 fol.

My point is precisely this that everything else aside and I don't cast aside, I suggest to the Court, that they are all valid grounds but assuming arguendo, everything else aside, how can the jury not accept this as probative evidence of the act itself? How can they exclude from their mind that this isn't really being introduced to correct what Mr.Tweel was to have said on the witness stand but is, in fact, being introduced to prove the very fact at issue, did Dorfman make the call and read a list? It is inconceivable that the jury can keep this compartmentalized in their mind, your Honor, if the Court is going to admit this the only conceivable method by which the Court can keep this prejudice from spilling over onto Dorfman is to grant him a severance.

Now, this is the very precise part of this Barton case. Now, your Honor, this is not something that was part of the res gestae. This didn't happen at the time, this is by the agent's own admission, this happened in February at or about the time of the grand jury.

Can this Court permit this kind of testimony to go in so that it may be considered by the jury, considered as a statement made four months after the act being charged in the indictment? It is inconceivable that any kind of instruction is good as to the Defendant Dorfman.

Your Honor, I suggest with all earnestness that if this were to go in against Tweel, no matter what the

Court said to the jury, the jury cannot but accept it to be proof of the fact of which the statement is alleged to be.

THE COURT: All right.

MR. NEAL: Your Honor, just two things. Mr. Branstetter says, oh, we haven't laid the proper foundation, he didn't deny it. Well, in substance he denies that. He said I don't believe he ever had a conversation. Don't recollect ever having a conversation with these people on that matter.

I don't think you have to specifically deny it for the government to prove it. I can tell you why, your Honor. The Witness Parks, his testimony was, we are entitled to rebut his case, the import of his testimony on the stand was, yes, I had some communication with Parks, but it was all about our sister, Audrey, or some death in Louisville, we are entitled to rebut that, your Honor. We are entitled to rebut his case . It seems to me we are entitled to do it by showing that he had made these inconsistent statements to the Federal Bureau of Investigation.

Even Mr. Branstetter admits that we have laid the proper foundation for the questions asked. We have pointed out to the Court the page on which it appears. The defendant can't get off from that by saying I don't recollect ever having a conversation like that. That is in essence a denial of the conversation.

Certainly it is enough for us to put on our rebuttal of the import of his case.

Now, with respect to what Mr. Branstetter says, he says, oh, you could have put it on, but you should have put it on in chief. We couldn't know what Parks was going to say in chief. We couldn't know that he would be entirely consistent with what we were going to put on.

If we started putting on a statement that Mr. Parks made that he never had these conversations, we would have been refuting our own case which we contend that he did have the conversations.

We could not put that on until we knew what position Parks was going to testify on the stand to refute him. And that is the precise holding of the Montgomery case that I cited to your Honor, that this is the exact time.

With respect to Mr. Tweel, Mr. Grady says that Mr. Tweel did not deny this. Well, your Honor, I refer you specifically to the bottom of Page 5479, and the top of Page 5480 when he is asked this question and he says, no, sir, I don't believe I made that statement. I have no recollection of it. Well, now, that couldn't be any more than, couldn't be any more of a denial than that, your Honor.

MR. HAGGERTY: Categoric denial.

MR. NEAL: Categoric denial, no, sir. Now, Mr. Grady also says, well, there is some confusion about whether

he said anything, whether he was saying that I made that statement not over a telephone.

Well, again, your Honor, he was asked at the bottom of Page 5489 and 5490 and this time it was made plu- perfectly clear that Mr. Hooker was talking about a statement he made to the FBI that Dorfman had called him a week or ten days after the trial started and asked him about a member of the jury.

Furthermore, on the same point the Witness Tweel took the stand and testified, testified all these conversations--

THE COURT: (Interposing) What do you say about Mr. Silets' contention that this is proof in chief?

MR. NEAL: Should have gone in in chief, your Honor?

THE COURT: Yes, sir.

MR. NEAL: Could not have known. That is the exact thing the government's case, we don't know, we didn't know what Tweel was going to testify to when he took the stand. We contended, of course, that he had these conversations about the jury. We couldn't, we can't rebut, we can't refute the import of their case until their case goes on, that is the very thing that the Montgomery case says.

MR. SILETS: Your Honor, I interject this that on its face would have probative value if what these agents

say is true that he said that he received this call, this would, in fact, have the precise probative value that the government needs to prove their case and they didn't have to wait until Tweel took the stand because the agents could get on the stand and say, yes, Tweel told us he received a phone call from Dorfman, that is what they have been trying to prove.

Now, that is exactly the Smollen case, which I cited.

THE COURT: All right.

MR. NEAL: Your Honor, we are offering this-- offered the Court two reasons why this is admissible, admissible on either one.

If it is not exculpatory statement, certainly it is admissible to impeach the witnesses and refute the theory of their case.

Mr. Tweel could have got on the stand and said, well, yes, I told the agents that. I don't remember. He may have read me a list. He could have said the same thing. We can't rebut this case until they put their case on and that is the very thing that the Court in United States vs. Montgomery pose in either theory, your Honor.

THE COURT: Suppose, for example, you had held Mr. Partin until this point and then put Mr. Partin on to say what Mr. Tweel allegedly told him, is there any difference

in the world in that and what is being suggested here?

MR. NEAL: Yes, your Honor.

End Tk 24
Tk 24A fls.

THE COURT: Mr. Partin put on now says well, Mr. Tweel told me so and so about the jury list, aren't you now putting on FBI agents to say that Mr. Tweel told me so and so about a jury list?

MR. NEAL: Yes, to rebut his denial on the stand and rebut his whole case, Your Honor. We are entitled to rebut it.

THE COURT: Well, I sustain the objection as to Mr. Tweel. I'm going to reserve at this time the objection as to the testimony on Mr. Parks. We can look at that further. Study that further.

MR. NEAL: Your Honor, is Your Honor saying--, I don't want to argue this, but I don't want to be presumptious with Your Honor, but we have pointed out to the record where Mr. Tweel denies making this statement to the FBI.

THE COURT: Well, as it appears to the Court, Mr. Tweel at any rate, this is proof in chief and not rebuttal.

MR. NEAL: Well, Your Honor, if it is offered for impeachment purposes, is the Court holding that we are not entitled to impeach a witness by prior inconsistent statements when he denies making the statements?

THE COURT: It is not the Court's understanding that you can introduce proof in chief just for the purpose of rebuttal.

MR. NEAL: We can offer impeachment testimony of

a witness in rebuttal, Your Honor, and McCormick is squarely on this holding that prior inconsistent statements may be proved where it is denied or there is no recollection by extrinsic evidence, it is squarely on the point.

THE COURT: Well, gentlemen, I am going to take the opportunity to study it further.

MR. NEAL: Would Your Honor reconsider that and read the McCormick on Evidence?

THE COURT: Yes, sir, I will study it further.

MR. NEAL: I cite Page 62 and the following pages of McCormick on Evidence and rehabilitation of witnesses. It is one of the few areas where a witness can be impeached by extrinsic evidence, that is, that he has made a statement prior to his testimony which is inconsistent with his testimony. Of course, I must point out, you must lay a foundation. You must ask him if he made that statement to the FBI. Them if he denies it or equivocates you can bring in other proof.

MR. BRANSTETTER: To point out one matter I had hoped that we would proceed and get through with this case, but if this goes on we will never get through.

Too, the reason the government didn't put these two witnesses on was because they would have had to have turned over the Jencks statements and they were trying to reserve something and get it out of order.

MR. NEAL: We didn't do that. We had to wait. We couldn't do it or I bet they would have objected if we had tried and I bet they would have been right.

MR. BRANSTETTER: My second point is this, they did not ask Tom Parks if he was in Louisville. All they are seeking to show is this, that Campbell said that he had seen him in Louisville and they forgot to ask Parks about it on his cross examination. That is what they are seeking to show.

MR. NEAL: We are seeking to rebut Mr. Parks, we are seeking to rebut Mr. Parks' denial. We are seeking to rebut his testimony. We are seeking to rebut his statements that he never made a statement to the FBI that I had never seen Larry Campbell, had no contact with Larry Campbell, trying to show prior inconsistent statements for impeachment.

MR. SCHIFFER: I only ask one thing, will the prosecution point out to Your Honor wherein their cross examination of Mr. Parks they asked him, were you in Louisville and did you see Larry Campbell in Louisville? If they can show that, I withdraw my objection. I want to see it in the record now on cross examination that they asked that question of Parks and laid the foundation for their viewpoint.

MR. NEAL: Your Honor, we are entitled to ask the witness if he made a statement and if he denies making that--

THE COURT: (Interposing) Let's move along, gentlemen. We can spend all afternoon on this matter without any further profit. I will sustain the objection at this time, but will reserve the matter for further study. Are we ready to proceed with further rebuttal?

MR. NEAL: Yes, but we don't have any witnesses to consume the afternoon, Your Honor. We just could not get them here in time, not knowing when the defense would close.

THE COURT: Let's proceed as far as we can go.

MR. NEAL: We call Mr. William Foster. Does Your Honor want us to have a voir dire of this witness? I can tell Your Honor what he is going to testify to.

MR. BERKE: All right.

THE COURT: All right.

MR. NEAL: If Your Honor wants me to. Would you like for me to state what he will testify to?

THE COURT: Yes, sir. State it.

MR. NEAL: He is going to state that he was called late at night on the night of October 21, 1962 by the Defendant Dorfman and asked to bring him to Nashville. Shortly thereafter, after this contact late at night on October 21, 1962 he did fly--, he did leave Chicago with Defendant Dorfman for Nashville.

He arrived in Nashville about two o'clock Chicago time which would have been one o'clock, one a. m., Nashville

time. That he was told at that time, at the time he landed and the time Mr. Dorfman left him, he was told to be ready to go back early in the morning.

That is his testimony, that is the testimony of the witness Foster.

MR. SILETS: What is that rebutting, Your Honor? I don't understand that.

MR. ALEXANDER: That is in evidence.

MR. NEAL: No, it is not in evidence, Your Honor. The testimony here has been that, and the testimony of the Defendant Dorfman has been that he was called by Mr. Hoffa on October 20th, again in the morning of October 21st and says, bring some records to me at Nashville.

He says I then called and we put evidence of the calls in the record. I then called Defendant Tweel and told him, let's get together with the meeting in Nashville. Let's conduct our meeting in Nashville. I'm going down there anyway and I asked him, Your Honor, I asked him, well, when you called Tweel did you then immediately make arrangements to go to Nashville and he said yes.

We are prepared to show as the record now shows that the Defendant Hoffa called Dorfman at nine o'clock a. m. in the morning. That Dorfman called Tweel at 10-something in the morning. And it wasn't until Tweel got to Nashville and called Dorfman which Dorfman admits Tweel calling him in

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Nashville around seven, and it wasn't until after Tweel gets to Nashville and calls Dorfman that Dorfman then makes arrangements to go to Nashville.

End 24A

25 fol.

MR. BRANSTETTER: May it please --

MR. NEAL: (Interposing) Moreover, they said they were going to conduct a business session, we are prepared to show that he came down there, didn't get down there until 1:00 a.m. Nashville time, and had plans to go back early in the morning that morning.

Now, the jury can take whatever inference they want, we think we are entitled to rebut their defense.

MR. BRANSTETTER: May it please the Court, if counsel for the government would continue to state what witnesses he has, maybe we could eliminate them all and argue to the jury in the morning.

MR. NEAL: Maybe we are going to.

THE COURT: Didn't you -- excuse me, go ahead, Mr. Silets.

MR. SILETS: I think the evidence is fairly clear, both from the testimony of Mr. Dorfman, and I quote specifically page 5688 where Mr. Dorfman said he arrived rather late, as I recall, in the evening. What is the issue involved, whether he arrived late or early?

THE COURT: Didn't Mr. Dorfman testify that he called and chartered a plane late Sunday night?

MR. SILETS: Yes, he did, as a matter of fact, on the same page he says, "You recall how you happened to get to Nashville on the 21st?"

"Yes, sir, I chartered a plane at O'Hara Field in Chicago.

"You flew to Nashville in this chartered plane?

"That is correct."

THE COURT: Yes, I can't see --

MR. NEAL: (Interposing) Your Honor, may I point out what the testimony has been here? Mr. Tweel says that he has made arrangements to meet Mr. Dorfman in Nashville.

THE COURT: Mr. Neal, how --

MR. NEAL: (Interposing) For a business meeting.

THE COURT: This witness, as I understand, is a pilot.

MR. NEAL: Yes, sir.

THE COURT: And this witness you say will testify that sometime on the evening of October 21st he got a call to fly Mr. Dorfman to Nashville?

MR. NEAL: Yes, sir.

THE COURT: And that he got there at a certain hour that night and was to go back the next day.

MR. NEAL: He got there at 1:00 a.m., was going back early the next morning, made plans to go back early the next morning.

Also the Defendant Tweel and the Defendant Dorfman testified that, "We had arranged to meet for business in Nashville."

THE COURT: This witness wouldn't know anything about that.

MR. NEAL: No, your Honor, but the circumstances clearly shows that they were not coming to Nashville to meet to discuss business. The Defendant Dorfman said that right after Hoffa called me and I called Tweel, Hoffa called him at 9:51, he called Tweel at 10 something, he, in answer to my questions, he said he then made arrangements right then, made arrangements to go to Nashville.

THE COURT: Well, how could this witness rebut that?

MR. NEAL: This witness --

THE COURT: (Interposing) He made arrangements with this witness but how could this witness rebut whether he made arrangements or not?

MR. NEAL: This witness will testify he didn't contact him until late at night and that he didn't get to Nashville until 1:00 a.m. and told him, "We are going back early in the morning." How could they be there conducting business? That's what we want to argue to the jury.

THE COURT: I can't see any rebuttal in this.

MR. NEAL: He will testify that he was going back -- my understanding is he will testify he told he was going back at 8:00 a.m. Now, how could this plan between Dorfman and Tweel had to come to Nashville be truthful if it was the

Defendant Dorfman, when he got there at 1:00 a.m. in the morning to leave the next morning at 8:00 a.m., how could there be a plan? Why aren't we entitled to rebut this testimony of theirs which was a plan to meet for business in Nashville, or my recollection is the Defendant Dorfman said, "We were going to meet down there Sunday evening for business."

Tweel said he came by his room at 10:00 a.m.

THE COURT: Well, I sustain the objection. I see no rebuttal testimony in this witness.

MR. HOOKER: If your Honor please --

MR. NEAL: (Interposing) Your Honor, we propose to call Walter Sheridan to the stand to testify that he was receiving evidence of jury tampering daily during the Hoffa trial, that based on this and not until he received these did he ask that he pass this on to the FBI and asked the FBI to conduct inquiries and it was based on this information that he was able to apprehend an approach by King to Patrolman Paschal, able to apprehend that an approach had been made to the relatives of the juror Gratin Fields, able to know that the Defendant Dorfman and Hoffa were calling Tweel and Tweel was calling Hall and seeking to have Hall find somebody that they knew on the jury to approach.

Now, that is going to be offered in rebuttal.

MR. BROWN: Your Honor.

MR. ALEXANDER: Tweel and Hall, that's a matter

for argument.

THE COURT: Just a moment, let's take them one at a time. Which gentleman is recognized?

MR. BROWN: Your Honor, me.

THE COURT: All right, Mr. Brown.

MR. BROWN: Your Honor, on behalf of King, as I see now what Mr. Neal proposes to offer is argument to the jury, certainly this is not proof in chief. I have never heard this, he could have introduced every bit of this by Mr. Sheridan and laid the groundwork, the witnesses brought on as for his reasons throughout this whole thing instead of that now he attempts to make an argument in front of the jury to that effect. We don't think it's any rebuttal at all.

MR. SILETS: Your Honor, can I give the Court some cases on point?

THE COURT: Yes.

MR. BERKE: I have a memorandum. What do you have, the Mallin case?

MR. SILETS: The Mallin case.

MR. BERKE: Well, I have that, your Honor.

MR. SILETS: Also I don't know what Mr. Berke is citing, I think he is citing one of the cases I was going to mention.

MR. BERKE: All right, you go ahead and cite it.

MR. SILETS: Also Mallin versus United States,

170 Fed. 2nd 585 and Sykes versus United States, 312 U. S. 223.

THE COURT: 312 U. S.?

MR. SILETS: Yes, sir, Supreme Court, yes, that's right, 312 U. S.

THE COURT: All right. Anything further on this matter?

MR. NEAL: We have a memorandum on this, your Honor, and I want to point out this, we did not put Mr. Sheridan on in our direct case. You couldn't bring on testimony that Partin told Sheridan something out of the presence of the defendant until the defendant attacked the Witness Partin's testimony as a recent fabrication, which they have.

We are prepared to show it's not a recent fabrication. We are prepared to show for corroborative purposes that it was being related daily and based on this we knew before the Defendant King made the approach to the Patrolman Paschal that he was going to make the approach and that is the reason that the FBI was surveilling him, and that's the reason the FBI were out in the vicinity of Paschal's residence the night of November 17th when they saw him or saw the car there that he was driving at the Paschal residence.

This, your Honor, is again rebuttal testimony which could not be put on on direct. It can only be put on in rebuttal because the Witness Partin's testimony --

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THE MARSHAL: (Interposing) Let's be quiet.

MR. NEAL: The Witness Partin's testimony was attacked as a recent fabrication. We have a memorandum on this we would like to pass in to the Court and to the defendants.

End 25
25a fls

MR. BROWN: I think, your Honor, I think Mr. Neal hit the nail right on the head when he said it's corroborative testimony. Now, he is trying to bring in here someone to corroborate what Partin told Sheridan, which Sheridan would be reciting a conversation he had with Partin. It wouldn't be rebuttal in any sense of the word, in other words, Partin's testifying what he recited to Sheridan and now Sheridan is coming in and saying, "Yes, he did recite this to me." It's not rebutting anyone, it's actually trying to corroborate their own witness. They could have done that on their proof in chief.

MR. NEAL: I am passing, I am handing to the Court and through the Clerk the government memorandum of law regarding the admissibility of testimony, contemporaneous reports made to Walter Sheridan by Edward G. Partin.

Your Honor, the whole attack, as your Honor well knows, is broad discretion being permitted on cross examination for calling witnesses in here and the whole attack is this has been a fabrication and a recent fabrication on Partin's part.

We are entitled to show that these were statements made and that based on these statements these are not--this is a thing that is going to happen that Partin told Mr. Sheridan, this is going to happen, I can tell you that King is going to approach Patrolman Paschal.

This is when Mr. Sheridan tells the FBI, "We better surveil King, he is going to make an approach to Paschal." Not that an approach has been made to Paschal but an approach is going to be made.

This will show, your Honor, that the testimony, not only it's true, but it's not a recent fabrication as the defendant has contended so many times throughout.

MR. SILETS: Your Honor, I have just been handed this memorandum that is amazing to me in the light of Mr. Neal's suggested argument to the Court, when the Court reads the first paragraph it says, "The government proposes to offer the testimony of Walter Sheridan regarding reports made to him about at the time of the acts testified to by the Witness Partin to corroborate the testimony of the witness."

Now, I cite to the Court Mallin vs. United States and I quote, "The witness may not be corroborated or have the sworn testimony reinforced by proof that on previous occasions he has made the same statement as those made in his testimony." The government knows this, it's axiomatic.

THE COURT: Well, do you have any authority as to whether testimony that might tend to corroborate a witness can be used on impeachment? Your Mallin case is not on this particular point?

MR. NEAL: The Mallin case is cited on Page 5 of our brief, that's the case Mr. Silets says and is

distinguished clearly.

MR. BERKE: In the first place, if your Honor please, this is the government's own witness and, of course, the impeachment question can't come in so far as Mr. Partin is concerned, if this is rebuttal it's not rebuttal to anything at all, actually all they are trying to do is to show that they are trying to bolster Mr. Partin's testimony by the testimony of Mr. Sheridan, which is clearly hearsay.

Now, the point is that Mr. Neal in this record is trying to say a recent fabrication. There is no insistence here that this is a recent fabrication, this is a fabrication beginning from the moment that he arrived at the trial in Nashville.

Now, there is a rule on a recent fabrication where they had made prior consistent or inconsistent statements that is admissible.

End Tk 25A
Tk 26 fls.

But this is not it. This goes to the very heart of it. In other words, these are statements made in October, November, December. He is relating about those events.

Now, if this is something that he has cooked up in the last few days and had previously made inconsistent statements when you study this case it is clear because actually you are not proving anything because as they say in here, if McLaughlin told the truth at the trial, he may very well have told it on December the 11th. If he lied at the trial, his statements of December 11 only goes to show he made a lie.

All they are trying to do here is trying to introduce here and to prove hearsay evidence and not a prior inconsistent statement because this is not a recent fabrication. It was a fabrication from the very beginning.

So we say that Mr. Neal, Mr. Neal's statement that he read in the record of recent fabrication that rule did not apply.

MR. NEAL: Your Honor, now, Your Honor they put on proof by Mr. Debbie George and Mr. Stevick, or something, that the witness Partin and of course other witnesses, of their own, contradicted this, that the witness Partin called the Defendant Hoffa on January 17, 1964, Your Honor, and says, if you don't--, if you make me call off the strike, I am

going to come up to Nashville and testify against you. They have said, they have said the same thing about the witness Partin, that old story about a lawyer offered $10,000.00 to defend a case and he wired back and says, "I'm taking the evening train with two eye witnesses."

They are attacking this man as a recent fabrication. That certainly makes it admissible. It is certainly admissible, Your Honor, not as hearsay, if this had merely been a statement to the Defendant Sheridan, to the witness Sheridan about something that happened in the past they would have more argument along that line as being merely prior inconsistent statements made out of court.

He is testifying he told Sheridan what would happen in the future, the fact that the statement is made, Your Honor, is itself corroborative. The fact that it was made. And the fact that what he said later turned out.

Moreover, Your Honor, the whole crux, the whole thrust of the defendants' case here has been to discredit the witness Partin, to show that he was put up to this, to show that the government bought the man somehow to give false testimony.

We are going to show that it is true. Now, Your Honor also they attack his memory and how can any man remember all this? We are entitled to show how he can remember this. We are entitled to show how it is true.

He had a good memory because he reported it every day.

We ask Your Honor to read our memorandum on this. It is an important point.

THE COURT: I'm going to have to reserve this until I can rule upon it. I'm going to have to study these memoranda. I can't do this in five minutes.

MR. NEAL: We want to be helpful to the Court. We appreciate that. We would like the Court to consider our request to impeach the witnesses Parks and Tweel by the prior inconsistent statements. We would like Your Honor, I know you have ruled, but we would like for Your Honor to consider that further.

THE COURT: All right.

MR. NEAL: I would like for Your Honor to consider the Witness Sheridan's testimony.

THE COURT: All right.

MR. HAGGERTY: May I say, in reference to the immediate matter before the Court, there is evidence in the record that the exhibit dated 11-7-63, that is the sealed envelope, and the affidavit signed by Partin, which is in evidence--

MR. NEAL: (Interposing) It is not in evidence. That is not in evidence.

MR. HAGGERTY: And also there is a telephone recording of 10-8-62 and 10-18-62, which shows may it please

the Court in support of the government to that extent.

Therefore, I say it is entirely superfluous and unnecessary to put Sheridan on, not waiving any other of our many grounds.

MR. SILETS: Your Honor, there is another aspect of this matter. I think Mr. Berke has touched on it briefly. On this recent fabrication. It seems that the prior consistent statements may not be admitted for purposes of rehabilitating the witness unless it was made before the existence of a motive to fabricate.

Now, the motive to fabricate this testimony existed at the time this prior consistent statement was made. In other words, at the time he made the statements to Sheridan he had the same reason to lie about this testimony then as he does now.

Now, for example, in United States versus Sherman, 171 Fed. 2d 619, there was a reversal in a similar kind of situation where the Court said, concededly the same statement was not competent unless the admission of the impeaching statement, there was an impeaching statement of the witness, made it so for when Avell, that was the party, Avell, made it, he had the same motive to fabricate, that is, the hope of leniency, that he had while on the stand.

Now, that is exactly what we have here; Partin when he made these prior consistent statements to Sheridan,

had the same motive if he had the motive at all, as he has now on the witness stand.

And the only basis for putting in a prior consistent statement in refutation of a motive to fabricate is when the motive changes.

MR. NEAL: Your Honor, in answer to that, I don't mean to keep arguing this but they have brought out the January 17th, 1964 phone call that if you don't call off the strike or if you make me call off the strike I am going to come up to Chattanooga and testify against you. That is the best motive to fabricate.

Moreover, Your Honor, I don't think Mr. Haggerty is correct. I would be happy to know it if it is and we move its admission, but I don't think that November 7th affidavit is in evidence.

MR. BRANSTETTER: Yes, may it please the Court, it is.

MR. NEAL: Can we have an understanding that it is in evidence then?

THE COURT: Well, the Court understands it was in evidence.

MR. BERKE: November 1 to November 7.

MR. SCHIFFER: I put it in evidence on cross examination, Your Honor, affidavit of Mr. Partin.

MR. HAGGERTY: Affidavit of Mr. Partin, of

26-6

Ex 26
26A fol.

December 19th was introduced. December 7th, was introduced and received in evidence.

MR. SCHIFFER: Yes, sir.

MR. HAGGERTY: And it refers back to a November 7th.

MR. NEAL: I just wanted to get that straightened out. It is fine to have that in. Doesn't change the argument here. I didn't know that it was in evidence. We would like to have it in evidence.

MR. SCHIFFER: It is in evidence, but I should also before your Honor retires, to leave you with this one point that with reference to the January, 1964, telephone call that Mr. Neal refers to, the parties who testified to that were behind another partition. They, in fact, could not say of their own knowledge and they so testified that, in fact, the Witness Partin did speak with Mr. Hoffa. He came out and later told him he was talking to Mr. Hoffa. But there is no independent evidence of that at all.

MR. BERKE: Besides, the rule is it has to be a prior, not a subsequent, consistent statement. It has to be a prior consistent statement, where the motive to fabricate does not change.

In other words, if they made a prior consistent statement at a time when there is no showing for a reason to fabricate then under the exception that is competent.

But not any subsequent statement. Now, all of these statements were made during the time when the motive

to fabricate was exactly identical, the same all the way through, if anything at all, it might have got worse and worse as it went on but the motive continued.

Now, had Partin made a statement, say, in July, 1962, before he was in any trouble whatever, now that would be considered a prior consistent statement at a time when there was no motive to fabricate.

Now, that is the only time you have the exception. But when he talked about a statement made in January, 1964, that is not a prior consistent statement and that is only the time of the exception.

MR. NEAL: Your Honor, they put on telegrams here, telegrams from Mr. Hoffa to Mr. Partin. Take off this strike. Trying to show he was angry at Mr. Hoffa because Mr. Hoffa wanted him to pull off a strike, pull off of a strike.

Mr. Bufalino took the stand and said some time during the trial, I believe he said the 10th or the 11th, 10th or 11th or 12th of December, if I remember exactly, a week or ten days before the trial was over anyway, that Mr. Partin and Hoffa--Mr. Hoffa told Mr. Partin something about cleaning up his union and he walked out in a huff.

But, your Honor, above and beyond all that, all the statements, the general rule is that no--any evidence, let's say, that tends to prove anything that has any value whatever is admissible.

THE COURT: Well, yes.

MR. NEAL: That is the general rule.

THE COURT: It is the general rule, too, that lawsuits must end some time. And there is a time for all things. There is a time to put in proof and there is a time to not put in proof.

MR. NEAL: What would your Honor's ruling have been if we had followed Mr. Partin with Mr. Sheridan to the stand and testified he told Mr. Partin this? I don't think your Honor without more, without some, without Parks or Partin, I don't think your Honor would have sustained the admissibility of it.

THE COURT: Well, both sides certainly have been permitted to put in corroborative testimony in their proof in chief. You put in testimony that would tend to corroborate some of your other testimony and the defense put in testimony that would tend to corroborate some of their other testimony and they did that on proof in chief.

MR.NEAL: But we were compelled to wait with the Witness Sheridan until, until the Witness Partin was attacked.

THE COURT: All right. Well, I will have to study this, gentlemen. I can't decide it from the bench.

MR. NEAL: Your Honor is right, lawsuits have to end. Certainly we are not going to be long in rebuttal at all. And it appears we are going to be even shorter than we

thought we were going to be. We are not going to be long in rebuttal. This is certainly highly probative, your Honor, and we see no rule of exclusion. It is not hearsay because the fact that it was made, the fact that Partin said it is going to happen, certainly the fact that he said that regardless of the truth of it, it certainly corroborates the truthfulness or certainly substantiates, and supports the truthfulness of what he is saying.

THE COURT: Well, now, yes, it may or may not be corroborative, but that is not the basis--I can't determine whether it is rebuttal or not on that basis. If it is offered just for purposes of corroboration then it would appear rather clear to the Court that it is not rebuttal testimony.

End Tk 26A
Tk 27 fls.

MR. NEAL: Your Honor, it's also offered to -- it is also clearly admissible, it seems to me, to rehabilitate the Witness Partin whom they offered telegrams when the Witness Bufalino got on the stand and says --

THE COURT: (Interposing) Let me say I don't think any further discussion at this time would be very helpful until I have studied the memorandum and they are rather lengthy memorandums.

MR. NEAL: Well.

MR. HOOKER: If your Honor please, I don't think there can be any doubt about this but since we followed this practice the next witness would be the Witness Walker that testified in the state's case in chief by whom we proved that he had no assignment for Walter Sheridan as testified by this Witness Shobe and also to prove by him that he never saw Shobe in his life.

THE COURT: All right. Let's bring him in.

(Thereupon, the jury of 12 and 4 alternates returned into open court, and the following further proceedings were had, to-wit:)

THE COURT: Have a seat, sir.

JAMES THOMAS WALKER,

a witness called at the instance of the United States of America in rebuttal, having been previously duly sworn, was examined and testified further as follows:

THE COURT: Ladies and gentlemen, it's about time for the midafternoon recess, but I trust you won't hold it against the Court if we don't take a recess at this time. Proceed. All right.

DIRECT EXAMINATION

BY MR. HOOKER:

Q Will you state your full name?

A James Thomas Walker.

Q I believe if you take your hand down I can hear you a little better. Fine. Did you testify before in this case as a witness for the government?

A Yes, sir.

Q State whether or not Thomas Ewing Parks ever at any time gave or turned over to you a hundred and twenty-five dollars?

A No, sir.

MR. SCHIFFER: Pardon me, your Honor, may we have that question repeated, I didn't quite follow it.

MR. HOOKER: I asked him to state whether or not Thomas Ewing Parks ever at any time paid or turned over to him $125.

BY MR. HOOKER:

Q Did you ever -- state whether or not you had any conversations later with Mr. Walter Sheridan?

A Yes, sir.

MR. HOOKER: Call Mr. Sheridan in the courtroom, please.

MR. BERKE: What do you want Mr. Sheridan in the courtroom for?

MR. HOOKER: I want to identify him.

MR. BERKE: Well, if he knows him, if your Honor please, and he states that without bringing the witness in, if your Honor please, he can just ask him if he knows Mr. Sheridan.

THE COURT: Well, is there any --

MR. BERKE: (Interposing) He says he knows him, we make no question.

THE COURT: You make no issue about that, if he says he knows him. Does the witness --

MR. BERKE: (Interposing) Hold it just a minute.

THE COURT: All right.

MR. BERKE: Let's find out if he knows him, then there is no reason for the other.

MR. HOOKER: I wanted to ask him, if your Honor please, if he ever had any assignment as testified here for this particular man, I want to identify the man.

THE COURT: All right.

MR. BERKE: Just a minute, if your Honor please. May I ask this witness a question? Do you know Mr. Sheridan?

THE COURT: You may answer.

THE WITNESS: Yes, sir.

MR. BERKE: There is no problem there. You have been with him for several days, haven't you, Mr. Walker?

THE WITNESS: No, I have not been with him several days.

MR. BERKE: How is that?

THE WITNESS: I have not been with him several days.

MR. BERKE: Were you with him last night?

THE WITNESS: No.

MR. BERKE: Today?

THE COURT: Let's proceed.

MR. BERKE: If your Honor please, he knows the man, that's all that is necessary.

THE COURT: Well, he can --

MR. HOOKER: (Interposing) I think I have a right to identify him.

THE COURT: Yes, you can identify him.

MR. HOOKER: Bring him in, Mr. Sertel.

(Thereupon, a person identified as Mr. Walter Sheridan was brought into the courtroom.)

BY MR. HOOKER:

Q Did you ever have any assignment for the man that stands before the jury now?

A I did not.

Q What is his name?

A Mr. Sheridan, Walter Sheridan as I know of.

Q Walter Sheridan?

A Yes.

Q You know him as a representative of the United States Government?

A Yes, sir.

MR. HOOKER: That's all, Mr. Sheridan.

(Thereupon, the person identified as Mr. Walter Sheridan was excluded from the courtroom.)

MR. HOOKER: Now, bring the Witness Shobe in. I want to ask if you ever had any conversation at any time with a man who identified himself as Shobe?

THE WITNESS: No, sir.

BY MR. HOOKER:

Q Did you ever see any man that identified himself as Shobe in the bus station, have any conversation with him?

A No, sir.

Q Did you ever talk to a man who identified himself as Shobe and tell him that you were on an assignment for Mr. Sheridan and ask him if he was also working for Mr. Sheridan?

A No, sir.

MR. HOOKER: Have you gone to get Shobe?

MARSHAL MANSFIELD: Yes, sir.

(Thereupon, a witness identified as Mr. Fred Shobe

was brought into the courtroom.)

MR. HOOKER: Stand right there, please.

BY MR. HOOKER:

Q Now, this is the man that has testified in the case and identified himself as being by the name of Shobe. I want you to state to the ladies and gentlemen of the jury if you ever saw this man before in your life?

A I have never seen him before in my life.

Q And, of course, never had any conversation with him?

A No, sir.

MR. HOOKER: That's all.

MARSHAL SERTEL: Step out, please.

(Thereupon, the person identified as Mr. Fred Shobe was excluded from the courtroom.)

CROSS EXAMINATION

BY MR. SCHIFFER:

Q You said you have never spoken with the gentleman just identified as Mr. Shobe?

End 27 A I have not.

27a fls

Q You ever visit him at a motel?
A I have not.
Q In Nashville?
A I have not.
Q Did you come to visit him with four other police-
men?
A I have not.
Q Did you ever speak with Mr. Shobe about your
possible indictment for violation of law?
A I have not.
Q You never had that conversation with any policeman
on the force?
A I have never seen Mr. Shobe.
Q I am asking you to answer my question, please.
A I beg your pardon.
Q Did you discuss a pending indictment against you
and four other policemen?
A No, I have not.
Q In the city of Nashville in connection with your
official duties?
A No.
Q You never did?
A Never did.
Q You know the Eldorado Motel?
A I am familiar with it.

Q Have you ever visited Mr. Shobe at the Eldorado Motel?

A I never have.

Q You never have at all?

A I never have.

Q Have you been there, visited there?

A I beg your pardon?

Q Have you visited the Eldorado?

A I have answered calls at the Eldorado.

Q And did you ever visit in any motel room in company with four other police officers of the city of Nashville, Tennessee?

A I have never been in any room in the Eldorado Motel at all.

Q I see. Pardon me a moment. While we are looking for some information here, it will save time of the Court and jury -- tell this jury did you ever shake down Mr. Parks, the defendant here?

A No.

Q Did you ever take any money from him?

A No.

Q Did you ever borrow any money from him?

A No.

Q Did you ever borrow any money from any of his family?

A Yes.
Q What did you borrow?
A When?
Q What did you borrow?
A I borrowed some money from a Mrs. -- the lady that runs the funeral home.
Q What is her name?
A I don't remember her name.
Q Isn't that the -- do you know the name of the party you borrowed the money from?
A I don't recall her name offhand.
Q How did she come to lend you the money?
A Because I asked her for a personal loan.
Q Pardon me?
A I asked her for a personal loan.
Q Who took you to this woman?
A Who carried me?
Q To borrow this money.
A I went myself.
Q You went yourself?
A Yes, sir.
Q Who introduced you to this lady?
A No one introduced me. I used to service, used to escort funerals, I have known her for some time.
Q How much did you borrow from her?

A Oh, I have forgotten the exact amount.

Q Has this lady, this sister of Parks --

A (Interposing) I don't know that.

Q You didn't know that?

A No, I don't.

Q Had you testified before this jury that you knew Parks because you had been attending funerals in front of that particular funeral home?

A I was of the opinion that he was a part of that funeral home as director or something, I didn't know that.

Q What reason did you give this lady to borrow the money?

A That I needed the money for -- for the payment of a bill.

Q For pay for what?

A A payment of a bill.

Q Of a bill?

A Um-hmm.

Q You ever borrowed any money from her before?

A No.

Q How much did you borrow?

A I have forgotten the exact amount.

Q How long ago did you borrow this?

A Oh, I don't remember that either.

Q Well, was it in '62, '63, '61, when was it?

A I don't recall the exact time.
Q Have you repaid that money?
A No, I didn't.
Q Pardon me?
A I didn't give her a definite date as to when it would be repaid.
Q I ask you now, have you ever repaid any of that money?
A No.
Q Have you repaid the interest on it?
A There wasn't any interest involved.
MR. HOOKER: We object to all of this, if your Honor please.
THE COURT: Sustain the objection.
MR. HOOKER: Wouldn't reflect on anybody's credibility.
MR. SCHIFFER: I will ask another question.
BY MR. SCHIFFER:
Q Exactly what did you borrow the money for?
A Payment of a bill.
MR. HOOKER: We object to that.
BY MR. SCHIFFER:
Q A bill for what?
MR. HOOKER: Shown to have absolutely no connection with this.

THE COURT: Sustained.

MR. SCHIFFER: We are going to show the connection.

MR. BERKE: If your Honor please.

THE COURT: Sustained.

MR. SCHIFFER: We will show the connection.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q As a matter of fact, this money which you say you borrowed and which you have not yet paid back, that was money which you took to shake down this Defendant Parks, is that not right?

A That is incorrect. I receipted the lady for it.

Q I didn't quite get that.

A I receipted, gave her a receipt for the loan.

Q You gave her a receipt for a loan?

A Yes.

Q But I ask you when was the date of that receipt?

A I don't recall.

Q How long ago was the loan?

A I don't recall that.

Q And you have not paid anything back on account, have you?

A No.

Q Is it over a year?

A I don't know, I don't recall the date.

Q Is it two years?

A I don't recall the date.

Q And you say there was no interest provided for in the loan?

A No.

Q In connection with this loan, is it not a fact that this loan was obtained from Mrs. Smith, Mr. Parks' sister at approximately the time when Mr. Parks went to the grand jury and he told you he was going to the grand jury in Nashville?

A I don't recall the date.

End 27a
28 fls

Q Well, will you throw your best recollection back now as to whether it is not a fact that at the time you got this money which you say you borrowed from your sister that you received that money at the time and approximately the time when Mr. Parks went to the grand jury in this case?

A The date is on the receipt. I don't recall the date.

Q Does the name Bertha Smith refresh your memory?

A Yes. Yes.

Q And wasn't the amount $688?

A No, sir.

Q How much was it?

A I don't recall but it wasn't that amount.

Q Well, you borrowed some money from her, do you have any record showing you borrowed this money?

A No, sir.

MR. HOOKER: Your Honor, it must be some end to this. We submit it is wholly immaterial.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Wasn't the time you borrowed this money April 1, 1963?

A I don't recall. I gave her my signature on the receipt verifying the fact that it was a personal loan.

Q And you say now you don't recall how much you

owe on that loan?

A I do recall giving her a personal receipt for the money she lent me.

Q I asked you what was the principal amount you borrowed?

A I don't recall the principal amount.

MR. HOOKER: We object to it as being incompetent, immaterial.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Did you speak with Mr. Parks, the defendant here, just prior to the time you received this money?

A I saw the Defendant Parks several times.

Q And isn't it a fact then as a result of it you talked with him in April, prior to April?

THE COURT: Now, gentlemen, are we going back into the original cross examination of this witness?

MR. SCHIFFER: Pardon me, I withdraw that question, your Honor.

THE COURT: Let's proceed.

MR. SCHIFFER: One further question, if I may, your Honor.

THE COURT: Yes, sir.

BY MR. SCHIFFER:

Q Isn't it a fact that you told Parks at approximately

the time that he had to appear before the grand jury that if he could get you an amount of money from your sister you could straighten him out with the grand jury and with the government?

A That is incorrect. I--

Q (Interposing) Didn't you--

MR. HOOKER: (Interposing) Wait a minute, let him answer.

THE WITNESS: I have known Miss Smith, I imagine, longer than I had known Mr. Parks. I have been knowing her for some time. And my conversation with her had no relation to Mr. Parks whatever.

BY MR. SCHIFFER:

Q I am asking you, sir, as a direct question, do you know how much you owe Mrs. Parks on the loan which you say you obtained from her?

MR. HOOKER: We object to it. It is immaterial.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Do you have a record of it?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q I believe you had related on your direct testimony with reference to Walter Sheridan, whom you have identified here, that you had a number of conferences with him in

Nashville. Is that correct?

A Yes.

Q And that is the same gentleman you are referring to?

A Yes.

Q May I ask you this question, then with reference to Mr. Sheridan; you had already testified, had you not, that you had given a false statement first to the FBI. Is that correct?

A I did not testify that.

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

THE WITNESS: I did not testify to that.

BY MR. SCHIFFER:

Q Did you testify you had given a different story to the FBI?

A I did not testify that.

MR. HOOKER: We object to that.

THE COURT: Sustain the objection. Gentlemen, let's move along to the rebuttal testimony. We are not going to go back over the entire lawsuit at this time.

EXAMINATION BY THE COURT:

Q Mr. Walker, did you at any time during October, November, December, 1962, give any money to Mr. Parks for delivery to a Carl Fields?

A No, sir.

THE COURT: All right. All right, call your next witness.

(Witness excused.)

MR. NEAL: Your Honor, we are in the situation we spoke of earlier.

THE COURT: All right. Well, ladies and gentlemen, of course, it is difficult to plan. No one knows just how long it will take to examine a witness or to cross examine a witness, and it is difficult, therefore, sometimes to schedule witnesses and have witnesses available. At this time--well, before I excuse the jury, let's be in recess for about ten minutes, ladies and gentlemen.

(Thereupon, at 2:55 o'clock P.M., court was in recess.)

End Tk 28
Tk 29 fls.

(The jury remained excluded.)

Gentlemen, I have read the government's memoranda upon the admissibility of the testimony of the witness Sheridan. It appears to the Court that that entire memorandum is devoted to the proposition of whether or not Mr. Sheridan's testimony would be admissible for the purpose of corroboration and is not devoted in any respect to whether or not it is admissible as rebuttal testimony.

The Court will study the matter further but at this time--

MR. NEAL: (Interposing) Your Honor, the reason I didn't, we will be happy to submit some authority, I thought the real problem was not when it came in but whether it could come in or not.

THE COURT: Well, at any rate, I would not allow that testimony at this time to be introduced. I will study the question further.

That being the case, do I understand there are no further witnesses available at this time?

MR. NEAL: Well, not this evening.

THE COURT: Is there anything further that we can use this jury for this evening?

MR. NEAL: Your Honor is still going to study the witnesses with respect to the impeachment of Parks and Tweel some further?

THE COURT: Yes.

MR. NEAL: We'll have to keep the FBI agents here if Your Honor is going to consider that further.

THE COURT: Yes.

MR. HOOKER: Maybe we can settle the time that Your Honor would allow us for arguments in the case. I think that would be to everybody's convenience.

THE COURT: Well, let's see if there is any use for the jury. If there is no further use for the jury may I release the jury for the day? If there is no further use I will release them.

Does counsel desire the court call them back in and give them the usual instruction?

MR. SCHIFFER: No.

THE COURT: I understand from all counsel then that the further instructions of the jury in that respect are waived.

Very well, counsel agreeing on that then the jury may be excused at this time to be back at nine o'clock tomorrow morning.

MR. NEAL: Your Honor has indicated that you were going to give the defendants a hearing on their motion with respect to wire tapping. I don't know, it appears they have had it on the stand already, but if they have not, why couldn't we consume this time with that?

THE COURT: Well, frankly--

MR. NEAL: (Interposing) I think the witnesses are here.

MR. HAGGERTY: We are not prepared at this time, we just can't get that out of the air.

THE COURT: Well, I am sure that we all have things that we could do this afternoon to a profit.

What is the position of the respective parties with regard to the length of argument in the case? I will let you state your position at this time on that.

MR. BERKE: If Your Honor please, do you reckon that it is a matter to take up in chambers, if Your Honor please, could we do that?

THE COURT: Well, I--

MR. BERKE: (Interposing) In an informal manner?

THE COURT: Glad to do it that way.

MR. BERKE: All right.

THE COURT: Is that the preference of all counsel in the case?

MR. HOOKER: Doesn't make any difference to us, Judge.

THE COURT: All right. Anything further that we can take up this afternoon?

MR. NEAL: We do have some additional rebuttal witnesses, Your Honor, they will not be here until in the morning.

In Chambers

THE COURT: Yes.

MR. BRANSTETTER: May it please the Court, could we get some idea, if the government cares to state it, about what they think they would have otherwise so we can see where we are going?

MR. HOOKER: We will finish these easily, I really think we will finish them in the forenoon and all I can do is state at this time about the nature of the witnesses, I don't believe even my distinguished adversary will claim that this proof is not rebuttal.

THE COURT: All right. Well, let's do this, gentlemen, rather than adjourn court at this time for the day, let's again recess the hearing to chambers and we will discuss the matter of the length of argument at that time and if any other matters occur during that discussion we will then come back to the courtroom for the purpose of taking up any other matters that can be disposed of.

Let's recess the hearing in chambers.

(Thereupon, the Court and counsel for the respective parties and certain parties retired to chambers, when the following further proceedings were had, to-wit:)

THE COURT: Very well. I believe all counsel are present and, as I understand, all defendants are present except Mr. Campbell and Mr. Parks and do I understand that their presence is waived as to the chambers hearing?

29-5

MR. SCHIFFER: They are waived.

MR. BRANSTETTER: Yes, may it please the Court.

THE COURT: All right. What is the recommendation of the government with regard to argument of the case and then we will take up the recommendations of the defendants?

End 29
29A fol.

MR. HOOKER: If your Honor please, I thought perhaps if the defendants were allowed an hour to a defendant, be six hours, we would take about half that time for the government.

THE COURT: All right. Well, let's see.

MR. BERKE: If your Honor please, I think we have discussed the arguments with some of the counsel, however, some of them are not present, so I can't speak for all of them as a matter of fact, for any of them except for Mr. Haggerty and myself.

As I understand it, with the exception of Mr. Hoffa, we propose to have one argument apiece for each defendant and since Mr. Hoffa is involved in three different counts, assuming that the Court does not sustain a motion for judgment of acquittal on any one count, Mr. Haggerty and myself will argue for Mr. Hoffa since we have three counts to cover and we are involved in each count of the indictment.

As to the time I don't -- I don't know. I had proposed, Mr. Haggerty and myself, to take an hour and a half each, I don't think some of the other defendants want near that much time, but that is what we would like to have.

THE COURT: Let's take up each of the counsel. What do you say for Mr. Campbell?

MR. BRANSTETTER: A maximum of an hour, possibly 40 minutes, 30 to 40 minutes.

THE COURT: All right. What do you say, Mr. Silets?

MR. SILETS: Your Honor, I had contemplated an hour and a half.

THE COURT: All right. What do you say? Let's see who is next counsel in line, Mr. Brown?

MR. BROWN: Your Honor, I say the same as Mr. Branstetter, 40 minutes to an hour, a maximum of an hour, probably 40 minutes.

THE COURT: All right. What do you say for Mr. Tweel?

MR. ALEXANDER: Two attorneys, I think about an hour and a half if we could have it.

MR. GRADY: You understand these are maximums to be cut off, not any requirement that we use that?

THE COURT: Yes. Oh, yes, Mr. Schiffer, I forgot, he doesn't argue, never argues, so --

MR. BERKE: (Interposing) I don't know how you could forget Mr. Schiffer.

MR. SCHIFFER: I think I could cover for Parks, your Honor, in two hours.

THE COURT: All right. Well, I would just have to consider these matters and try to let you know as quick as I can.

MR. NEAL: One possibility, your Honor might give

all defendants a total amount and let them split it any way they want to, I suppose, if they could get together.

MR. HAGGERTY: I don't think that is fair, Mr. Hoffa is involved here in three counts, the rest are all involved in one.

MR. NEAL: Mr. Haggerty, you just have a reaction to me as being unfair, it could be 24 hours and divide that, I just said a plan.

MR. HAGGERTY: Let's say candidly I have a slight suspicion of you, Mr. Neal.

THE COURT: All right. Now, is there anything other that we can accomplish in open court today that any counsel knows of?

MR. SILETS: There is something I would like to bring up in chambers, though, Judge.

THE COURT: All right. Let's see. What, Mr. Branstetter?

MR. BRANSTETTER: I was merely going to suggest that the government, if they plan on submitting instructions, proposed instructions, we might be able to make some progress on getting that problem out of the way right here.

THE COURT: All right. What was your suggestion?

MR. SILETS: Mine was really an inquiry which is what procedure does the Court want to follow on instructions? In our district what we normally do, and this is just a sug-

gestion, both sides submit to the Court their respective instructions and then after some time is given to review each side submits their objections, the defense can object to government's 5, 14, and so on, and the government would likewise do the same for the defense's instruction and then we would have the opportunity to argue those instructions which are objected to by either side and the unobjected to, if the Court is willing, or would give those, if no one has any objections to that, but at least we would have the opportunity to discuss the respective instructions.

THE COURT: All right. It would appear to be reasonable.

MR. NEAL: We are preparing instructions now, your Honor.

MR. HOOKER: I think that is a reasonable suggestion.

THE COURT: All right. If you will submit them yesterday, they will be helpful. No, seriously, the sooner I can have them naturally the more help they will be.

MR. SILETS: We are already beginning working on them.

MR. NEAL: We have a number, we should be able to submit them, I would say, tomorrow, not later than tomorrow night.

TK 30
EW 1

In Chambers

THE COURT: Well, can all counsel attempt to submit them by Friday?

MR. SILETS: Yes, sir.

THE COURT: Attempt to submit them by Friday?

MR. BERKE: Yes, sir.

THE COURT: Then that will give you an opportunity to consider them and object to them.

MR. SILETS: May I inquire of the Court, trying to work out a timetable, if we can submit them by Friday, have you consider them, and perhaps argue them on Monday and following the argument begin the final argument to the jury?

THE COURT: I think we will just have to leave that now until we see how we get along.

MR. BERKE: I have one or two statements I would like to propose to the Court. I think we can iron out among the defendants in what order the counsel would desire to argue the case so there will be no need of the Court imposing--

THE COURT: (Interposing) Yes, I wouldn't attempt to set the order of argument. I will allow you to set your own order of argument.

MR. BERKE: Yes. Now, another thing we would like, if your Honor please, not to divide the argument so that a part of it will be on a weekend and the balance of the argument on a Monday. We think they should go immediatel and the charge should follow the argument. That if it takes

two days, is all right, but it shouldn't be on a Friday and a Monday, for example.

THE COURT: Yes.

MR. BERKE: Which I don't think it will be, anyhow, but we don't want to be caught in that situation because it wouldn't be fair to the defendants that have to argue first.

THE COURT: Well, we will just have to take those matters up as they arise rather than trying--

MR. NEAL: (Interposing) On that, you say the defendants argue first, all the defendants argue in some order that you agree and then the government closes?

THE COURT: Yes. No question but that the government has the right to open and close.

MR. BRANSTETTER: But the government opened--

MR. NEAL: (Interposing) Divide our argument any way we want to, we open and close?

THE COURT: That's right.

MR. BERKE: That's right.

THE COURT: All right, if there is nothing further I think perhaps we should go in open court and adjourn court from the open court.

MR. NEAL: One more thing, your Honor. We propose to use certain charts, two charts, in summation, your Honor, that we will have prepared and the exhibits

underlying the charts will be marked. They will be summaries of the evidence and in part of the argument of the government.

MR. HOOKER: The number of the exhibit on the chart itself after each item and the man that will offer it will be in position to know of his own knowledge that it is supported by the evidence and in order to do that we'll have to put them on a blackboard and obviously that will be tedious and not nearly as legible as the manner in which we desire to do it.

MR. BERKE: Well, of course, we think that the Court has already sustained the objection to the chart. It is not in evidence. They can argue things but not prepare charts because we have no way to respond to them. And it will open up a way for the defendants to make numerous charts and so forth. And then we have to check the charts against the exhibit and all that, and we don't want an attorney getting up and saying now I have here a chart and he is arguing to the jury and we will have to get up and object.

MR. NEAL: Mr. Berke, the exhibit numbers will be on the chart. The Court did not rule that the charts were completely inadmissible. As a matter of fact, the Court indicated that that would be proper argument as I recollect.

MR. BERKE: I don't remember the Court stating that.

MR. NEAL: We have no objection to the defendants making all kinds of charts. We didn't object when a summary of telephone calls were put in even though the underlying evidence was not used.

THE COURT: Is it not permissible to use a blackboard and in the course of the argument in reference to allow the matters written on the blackboard, of course, stay within the record in the case?

MR. REDDY: That's right, within the exhibits.

THE COURT: What would be the difference in using a blackboard and revealing a chart, at least, revealing it item by item?

MR. BROWN: Your Honor, our position, Defendant King's position goes to this point, I assume these are telephone calls which, of course, we were not particularly involved in.

MR. NEAL: They don't pertain to the Defendant King.

MR. BROWN: Our objection will go to no one outside of the telephone people have been able to interpret those telephone cards. Even Mr. Hooker when the notes were taken off of them he couldn't tell what they were and it would be strictly what he believes them to be and we believe it would mislead the jury.

MR. BRANSTETTER: I think it is directed pri-

marily to the Defendant Campbell, so I think probably I am the one who would have the objection, and I want to state to counsel and the Court that each time this chart is used if it is put up on the blackboard here with the method that it was handed to the Court previously and sought to be used, I would object every time that they say a call was made from Campbell to so-and-so unless the record shows it and it does not show that.

End Tk 30
Tk 30A fls.

That is the trouble with a chart prepared in advance. If counsel wants to come in and argue a case at its conclusion and have a blackboard here and wants to mark and demonstrate, yes, this is highly acceptable.

But it is not acceptable to bring in a previously-prepared chart like was out here before and say, all right, this shows exhibit so and so and so and so here in this type of proceeding because then it gives to the jury the impression that this is the evidence. When it is not the evidence.

MR. NEAL: May it please the Court, this has been tailored to fit exactly the evidence. The witnesses have testified here, a number of witnesses have testified and each of these calls have been--, there have been a witness testified on each of these calls.

THE COURT: Are you referring to the telephone list that you gave to all counsel?

MR. BRANSTETTER: Counsel has it.

MR. HOOKER: Telephone calls.

THE COURT: Telephone calls?

MR. NEAL: Yes. Your Honor, we have the two charts used right here. Have the Court look them over. They will have the exhibit marked on them before we use them.

MR. HOOKER: The only difference, we submit between this and a blackboard, if Your Honor please, is just the manual thing of putting the figures on the blackboard,

the names of the witnesses and times and so on. It is tedious. And not nearly as legible as that would be.

MR.SILETS: Mr. Neal, are there two charts? I know that one was submitted to Mr. Branstetter. Which involves the Defendant Campbell. Is there another chart you are considering?

MR. NEAL: Another chart.

THE COURT: Well, of course, one problem in the matter would be as to whether or not everything reflected on the chart is reflected in the record. I think if you propose to submit the chart, for example, this chart, if the Court could inspect it beforehand to see and determine whether or not everything on the chart is reflected in the record or if the defendants would make objections as to matters on here that they contend are not in the record, why--

MR. HOOKER: Suppose we submit it to Your Honor on Friday just in exactly the form we would intend to use it with exhibit numbers and everything on it?

MR. NEAL: We will submit all charts.

MR. BERKE: We are going to object to the composite form of the chart where they pick out certain individual calls where the proof is now there have been hundreds of calls from Dorfman.

THE COURT: Well, it is obvious that the legend at the top of this chart, The government contends the following

telephone calls were made to and from. Well, that is not competent, clearly. Whether each of these items are competent or not, the Court would just have to take down and study the record.

MR. HOOKER: We intended to take that heading off of it. That is the reason I suggested that we would submit on Friday the chart just in the exact form we would like to use it.

MR. BRANSTETTER: It is going to make an impossible situation for the government to argue to the jury from this sort of thing because we have checked this and when this was handed the Court before, there was not a line of evidence in the record, not one, that the calls were from a particular person to a particular person. Not one line.

Mod 30A 31 fol.

MR. NEAL: We have --

MR. BRANSTETTER: (Interposing) Now, there's only one call that I recall that is listed on here that is specifically established by proof as to the caller and the receiver. Now, I would want to check further.

MR. NEAL: We have established --

MR. BRANSTETTER: (Interposing) I know of one.

MR. NEAL: We have established that certain calls were made from certain phone booths in Louisville to the Mattie Mix residence. The Defendant Campbell testified that he called, we had witnesses testify that he made these calls to the Mattie Mix residence from Mary K. Reeves' house, from Ernestine Williams' house.

All we are doing here is saying this makes it intelligible to the jury.

MR. GRADY: Your Honor, the exhibits speak for themselves just like in any other case and any interpretation the government wants to put on the exhibits they can do it by argument.

MR. NEAL: We cited --

MR. GRADY: (Interposing) Build up a composite picture and say this is the evidence. The exhibits speak for themselves.

MR. NEAL: This is argument.

MR. HAGGERTY: If there is going to be charts,

we'd just like to know it because we intend to bring one of Walt Disney's cartoonists in here to make our charts. If we are going into the subject of charts, then we are going into them very thoroughly.

MR. HOFFA: With figures.

MR. HAGGERTY: We are going to have figures and so forth.

MR. REDDY: You are going to have them in the record.

MR. BRANSTETTER: Seriously, this is somewhat facetious but I have seen it attempted in play acts, draw the picture of people here, cartooning in a sense, this I have seen attempted to be demonstrated, it's not proper, in my judgment, but to show the chart that this is so and so and this is so and so, you draw your lines, you cartoon them all the way, it's just as logical as this because that would be what we are contending, they look like they acted like they said and the inference --

MR. NEAL: (Interposing) We have no objection to the defendants putting in any charge based on the evidence in the record in their argument, based on the evidence in the record.

MR. HAGGERTY: We'd like a drawing to show at the inception of this thing that Mr. Partin was incarcerated in jail.

MR. NEAL: Draw it.

MR. SCHIFFER: For Parks, your Honor, the objection I have for Parks.

THE COURT: Well.

MR. BERKE: The only thing they prove are they are calls. They are trying to let us show on there that certain persons spoke to certain people. Much of the evidence shows that they were 30-second calls, maybe nobody even answered, don't even know who answered the call.

MR. NEAL: It's on there.

MR. BERKE: I know the time is on there, but you don't show who spoke, whether any one of these defendants actually spoke to any of these --

MR. SILETS: (Interposing) Your Honor.

MR. SCHIFFER: So far as Parks is concerned --

MR. BERKE: (Interposing) We think when you composite it together it makes it appear that the Court has condoned this composite, that it is the evidence and that they actually spoke to each other in an effort to build up the so-called plan that the government is preparing on. I think they can argue from the cards. They say they made X number of calls. Some of them received them, some they didn't. They can recite the exhibit numbers, but then to put it on a chart and say, "This is it," we think that that is improper and it will just open up too much.

Of course, I don't think we should even put on any charts on the thing. We have to argue from the exhibits that have been introduced and not to take the exhibits and then make a whole picture of it and make it appear like those are the calls.

There have been many more calls introduced. We have introduced a number of calls.

MR. SILETS: Your Honor --

MR. BERKE: (Interposing) We don't want them to pick out an isolated call and make it appear as this is it.

MR. SCHIFFER: With reference to any charts, your Honor, I am against them for this reason, if we look back upon the whole transcript all a chart could conceivably show at this time, if the government suggests, is that from a certain telephone box or a certain telephone a call was made to a certain other telephone, no identity is made of the speaker, the one who places the call, no identification of the party who is called, and there is certainly no identification about the subject matter spoken of. If those parties even spoke with each other as a result that type of chart which the government wants to put in is wholly misleading to the jury. What would be imposed upon the jury but they should trust the argument, to the jury to draw an inference but just because a call came from one number to another that it must of necessity have been defendants in this case, the evidence does

not support that.

They are trying to draw inferences and they are trying to buttress an inference by a chart without testimony in the case and if charts are admitted by your Honor for any purpose at all, then we should like to have the opportunity of putting in every chart --

THE COURT: (Interposing) I think we may be getting into other problems.

MR. HAGGERTY: We would like to, if there are going to be charts, we would like a projector, because we intend to make extensive charts, we intend to make charts of the telephone over in Louisville of Joe's Palm Room, of the FBI man snooping around and of the telephone man, Shobe, and Campbell in there.

MR. SILETS: Your Honor, it seems to me that if demonstrable evidence is to be exhibited before the jury, it has to be in evidence normally.

I have tried a case one time, one case had 10,000 exhibits. We had summaries but the summaries were put into evidence.

MR. NEAL: We offered this in evidence.

MR. SILETS: But this is my entire point, the Court has ruled correctly that these charts cannot be in evidence for the very reason that Mr. Schiffer has pointed out the government by these tricks is trying to draw inferences.

Now, there is nothing wrong with showing the jury pictures or photographs that occur or that Swiss cheese thing, but as far as this method of procedure I am not sure that it is proper.

THE COURT: Well.

MR. NEAL: Does your Honor have our brief on the point of the charts?

THE COURT: Yes, I have the brief, but I think that it is somewhat a matter of discretion with the Court and it would appear to the Court without giving -- I want to give it further thought, but it would appear to the Court that we could get more effective argument without taking the time to wrestle with these charts.

End 31
32 fls

MR. NEAL: Your Honor, it is hard, awfully hard, it is hard to make sense out of this for the jury to make any sense and understand--

THE COURT: Yes, it is going to be hard to take up each item on there and argue thirty minutes on an objection on it. And get done the first day and find out that we have gotten down to item Number 3 on Chart Number 1.

MR. BRANSTETTER: The real problem is this and I don't want to keep going through it, the problem is this, in the very beginning when this objection was made to the introduction of a call from here to here, at that point we handed in briefs relating to the real problem I knew it would arise, it is bound to when you start drawing an inference on an inference on an inference and that is the problem. Sure, it is hard to make sense because it is not appropriate procedure.

MR. HAGGERTY: I would say, Your Honor, if they are going to use charts we are going to request the court to use slides and a projector machine.

MR. NEAL: Your Honor, our charts are based on the evidence.

MR. HAGGERTY: Ours will be based absolutely on the evidence and each page of the transcript will be referred to on the slide.

MR. BERKE: Ours will too.

MR. HOFFA: Yes, sir. Yes, sir.

THE COURT: Well, I'm inclined to think, gentlemen, that you better plan your argument without the use of charts.

MR. HOOKER: Would Your Honor give us an opportunity to present to you Friday the charts in the final form which we propose to use them?

THE COURT: Of course, you can present anything you wish to, but I would think you would be wise to plan your argument without planning to use charts.

MR. HOOKER: We were hoping Your Honor wouldn't foreclose it until we had an opportunity to do that.

MR. HAGGERTY: We would like to know if there is going to be charts for the government. We would like to present our argument in our way and we have got to bring people from California for this purpose.

THE COURT: Well, I just think that what I have indicated already indicates the Court's feeling on this. Anything further? If not, let's go back into open court and adjourn court formally.

(Thereupon, the hearing in chambers was adjourned into open court and thereupon, the following proceedings were had, to-wit:)

OFFICER STOOKSBERRY: Court is now in session.

THE COURT: Having had informal discussion in

the chambers with regard to matters pertaining to the argument, are there any other matters that need to be brought up in open court before we adjourn for the day?

MR. HAGGERTY: We have none at this time, Your Honor.

THE COURT: If there are none, let's adjourn court until nine o'clock tomorrow morning.

(Thereupon, at 3:45 o'clock p. m. court was adjourned until nine o'clock a. m., February 27, 1964.)

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 26, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 26th day of February, 1964.

Fred B. Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Bufalino

UNITED STATES OF AMERICA,

Plaintiff.

vs.

NO. 11,989

JAMES R. HOFFA, ET AL,

Defendants.

Date: February 17, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
155	Hotel registration and freight coupon	5409	5409
156	A. Gordon Merry Agency	5424	
157	Telephone Company record	5471	
158	Telephone Company record	5471	
159	Telephone Company record	5472	
160	Telephone Company record	5496	
161	Telephone Company record	5498	
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165	West Virginia Building Brochure	5586	5587
166	Pritchard Hotel Brochure	5586	5587
167	Photograph	5592	
168	Photograph	5592	
169	List of calls	5594	5594
170	Legal Papers	5621	
171	Prospectus	5643	

TK 1
EW 1

TWENTY-FIRST DAY OF TRIAL

9:00 O'Clock A.M.
February 17, 1964

(Thereupon, pursuant to adjournment from February 14, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right, gentlemen. Are we ready to proceed?

MR. SILETS: May it please the Court, I believe this morning on behalf of the defendants a motion to suppress evidence was filed, together with an affidavit and a memorandum of interview by Attorney William Bufalino of the interview he had with Mr. William H. Daniels.

I may call the Court's attention to the colloquy that occurred last week. The defendants, at the close of the week, learned for the first time that the government had in its possession a recording of the telephone conversation had between Mr. Partin and Mr. Hoffa which was presumably that conversation which led to Mr. Partin's arrival in Nashville and from which all of his testimony apparently has flowed.

The position of the defense is that this interception and the divulgence of this telephone conversation and the use of mechanical or electronic recording device and

presumably, from what we have been able to establish by discussions with Mr. Daniels, specifically the use of an induction coil on the telephone at the time of the conversation, that such constitutes an illegal obtaining of the information from that telephone conversation. It is an illegal search and seizure under the Fourth Amendment and all evidence flowing from it, as well as the particular conversation itself, is susceptible to suppression.

The motion itself, under the rules, is a timely motion under the theory of the United States vs. Silverthorn Lumber because it is only at this moment that we have become aware of the fact that such a circumstance exists. At no time had we precise information concerning this matter; however, I do point out to the Court that as early as the pre-trial motions made before Judge Gray, I believe on behalf of the Defendant Parks, a motion and adopted by all other defendants, a motion was filed asking that all evidence from wire tapping, eavesdropping and other illegal methods be suppressed.

It is my recollection further that Judge Gray denied that on the basis that there was no evidence at the time to establish the existence of such illegal methods; however, as late as this last Friday the government tacitly admitted the existence of such recordings and wire tap and at this time, under the basis of the affidavit and the

1 - 4 3 .

memorandum submitted by the defense by William Bufalino in support of the motion to suppress, we now move the Court for a hearing to suppress the evidence and testimony of Mr. Partin and all evidence flowing therefrom and I would suggest to the Court, inasmuch as Mr. Partin's own testimony was that it was a result of this particular conversation that he then went to Nashville and proceeded to stay in Nashville and obtain whatever he has testified to that, in fact, therefore, all of the testimony must be stricken as being illegally obtained.

End Tk 1
Tk 2 fls.

THE COURT: All right. Well, the Court has just received this motion this morning and I will take your request under advisement and direct the government to file a response.

MR. NEAL: We will have one this morning, Your Honor.

MR. SCHIFFER: Your Honor, may we file our separate motions adopting the standpoint of Mr. Silets?

THE COURT: Yes, sir. Yes, sir. The Court has just received this morning also a motion, or two motions, in support of asking relief from a subpoena duces tecum, apparently both motions relating to Mr. Pitcher and relate to a subpoena of Mr. Pitcher. The Court has not had an opportunity to study those as yet. I will reserve those matters until I have an opportunity to study the motions.

MR. SILETS: Your Honor, I have another motion.

MR. ALEXANDER: If it please Your Honor, on behalf of the Defendant Tweel we would like to adopt the motion filed by Mr. Silets.

THE COURT: Sorry, Mr. Alexander, I didn't get your response?

MR. ALEXANDER: I want to adopt the motion on behalf of Defendant Tweel made by Mr. Silets.

THE COURT: All right.

MR. BRANSTETTER: May the Defendant Campbell also adopt the request of illegal wire tapping of phones and

request a hearing at this time.

THE COURT: All right.

MR. SILETS: If Your Honor please, I am filing a motion with the clerk on behalf of Mr. Allen Dorfman for a severance based upon the Court's ruling last Saturday denying defendants motion for judgment of acquittal.

The ground for this motion essentially is evidence that has been submitted by and large in this case relates exclusively to defendants other than the Defendant Dorfman. As a matter of fact, I think there are only two witnesses who have any direct testimony against Mr. Dorfman and all these, some forty or fifty other witnesses, do not pertain to him.

The basis of the motion is that no instruction can be given to the jury which will erase or keep them from considering the evidence which itself is not admissible against Mr. Dorfman, keep that evidence from being considered by them as against him.

In addition, the Court has admitted into evidence conversations that Mr. Nicholas Tweel had outside of the presence of Mr. Dorfman and the nature of those conversations may, although I do not concede they do, may implicate Mr. Dorfman and by that constitute extra judicial admissions by Mr. Tweel and again on the theory of Barton versus United States, 263 Fed. 2d 894, no instruction to the

jury can be sufficient.

Finally, Your Honor, the final two points of my motion is that the evidence here is essentially that of circumstantial evidence and when you have all of the testimony and matters going in before the jury which relate to so many other defendants under the theory of United States versus Standard Oil 23 Fed. Sup. 937 that the defense and in the actual proof against Mr. Dorfman will be lost against the morass and the weight of the evidence against other persons, especially in a situation where there is circumstantial evidence.

Finally, the trial here is now obvious as constituted a trial of misjoinder of defendants. Originally when I had argued this motion before Judge Gray he had listened to the arguments and granted a part of it by severing Count No. 1. At the time the government had contended that the action of each of the defendants had arisen out of the same act or series of transactions as is stated and required by Rule No. 8 of the Federal Rules of Criminal Procedure.

However, after we have seen the proof go in there is not one scintilla of evidence to establish that the acts of each of these defendants arose from the same act or the same series of transactions.

And, Your Honor, I direct the Court's attention

2-4

to my brief on this point. I filed a brief with Judge Gray and I believe I had renewed the motion for severance before this trial started with Your Honor on that same basis, that under the rule in order to have a joinder these defendants must have acted in the same act or same series of transactions and there is not one scintilla of evidence that what Mr. Dorfman is reputed to have done had any connection whatsoever with what Mr. King did or with these other defendants on the same count.

So I say to Your Honor under Rule No. 8 there is a misjoinder here and Your Honor should at this point sever these counts because of the misjoinder.

Er Tk 2

'k fol.

Now, for that reason and for the other four reasons I have cited this morning, I now again renew my motion for a severance.

MR. HAGGERTY: May it please the Court, with reference to the motion to suppress.

THE COURT: All right.

MR. HAGGERTY: That was filed this morning.

THE COURT: I believe the motion made by Mr. Silets for a severance should be overruled.

MR. SCHIFFER: The Defendant Parks joins in that motion.

MR. ALEXANDER: All defendants.

MR. BROWN: All defendants.

THE COURT: All defendants.

MR. BRANSTETTER: May it please the Court, I have filed a similar, somewhat similar motion, as a matter of fact, with very few changes, the motion is the same as the one filed on behalf of the Defendant Dorfman and, of course, the assertions with reference to that particular motion would be equally applicable here except more so because there is no evidence in the record of any sort that is competent in character to in any manner tie the Defendant Campbell in any transaction involving any other defendant in this cause in any other count of the indictment.

As a matter of fact, there is no evidence, as far

as I understand competent evidence to be admissible, even in the record to the Defendant Campbell, so the only thing that could result from the hearings and the myriad of testimony that has gone on here for three weeks would be to improperly prejudice the Defendant Campbell and further, of course, under Rule 8 there has been an improper joinder from the beginning.

THE COURT: I believe the motions for severance on behalf of all defendants should be overruled. Yes, Mr. Haggerty.

MR. HAGGERTY: May it please the Court, in reference to the motion to suppress evidence which was filed with your Honor this morning, and duly served on the government, I call your Honor's attention to the fact that this is not the type of motion which can be heard after completion of proof.

I say with due consideration and respect it is your Honor's duty to promptly, under the authority of Elkins versus the United States, make a decision on this matter.

THE COURT: What --

MR. HAGGERTY: (Interposing) Prior to the defendants putting in their proof. Now, in Elkins versus the United States, 364 U. S. at page 206, the rule is calculated to prevent, not to repair.

I ask your Honor to bear that in mind, "It is to

prevent, not to repair." Its purpose is to deter -- to compel respect for the constitutional guaranty in the only effectively available way -- by removing the incentive to disregard it.

Further in the case of Gancy versus United States, a Second Circuit case, 1923, I haven't the citation on it, and there it is settled what time and when this motion should be brought up and whatever at one time may have been the view as what constituted a seasonable application to require the government to return seized property or as to what should be regarded as a timely objection there can be doubt that at any time prior to verdict, and I say to your Honor we are placed in the clumsy situation, a difficult situation, there is information that there were recordings, there may be wire-tapping, I say it is such an imperative and important constitutional guarantee that we should have a ruling on this matter and if in your Honor's discretion to grant us a hearing we should know that before we are put to our proofs on the defense; therefore, I respectfully request your Honor to properly make a ruling on this motion.

THE COURT: All right. Well, the Court will have to take the motion under advisement until it has had an opportunity to study and also to consider the response of the government, so I will reserve that at this time. All right, gentlemen.

MR. BERKE: I was advised that your Honor ruled,

unless I am mistaken, that the government should by this morning file a response and he says he has not.

MR. NEAL: It's just a matter of getting some papers signed, your Honor.

THE COURT: All right.

MR. BERKE: I think we should have that response before we proceed on this matter.

THE COURT: Let's proceed, gentlemen. I will take these matters up in due course. Let's proceed. Are we ready to have the jury back?

MR. NEAL: There is one question still remaining, your Honor. Your Honor said in his order on procedure that the defendants would be required to proceed with their defense in the order in which they are named in the indictment. then as a result of the pretrial conference, your Honor said that you would wait on that question.

THE COURT: Yes, I will allow the defendants to put on their proof substantially -- allow them wide discretion in putting on their order of proof; unless there is some reason for it, it would appear to the Court that a defendant ought to take the stand first. If they have a reason why they want to proceed in some other order, the Court will consider that matter.

MR. NEAL: Your Honor, in that respect, with respect to the taking of the stand first, if they are going

to take the stand it seems to me that the only way to proceed, every other witness is under the rule, the defendants are the only witnesses who would not be under the rule, it seems to be fair that if they are going to take the stand they take the stand as the first witness in their part of the case.

MR. BERKE: If your Honor please, insofar as that is concerned, in some cases we do intend to put the defendant on, as I understand from other counsel, first, but in other cases it would be more intelligible, at least as far as the defendants feel to properly prepare their defense to the jury.

THE COURT: Well, I am going to allow you to proceed, Mr. Berke, as long as there is some reason in the manner in which you proceed; if the only purpose in proceeding as you may proceed is just solely to withhold a defendant from the stand until some later stage in the proceeding, then the Court will take steps to correct that, but as long as you are proceeding with some reason and some basis, I will allow you to do so.

MR. BERKE: If your Honor please, in behalf of the defendant Mr. James R. Hoffa we request the right, which we feel that we have, to make an opening statement to the jury as to his defense.

THE COURT: I believe that should be denied.

MR. BERKE: Would your Honor -- we would like to submit some authority on that and would your Honor reserve

that right until it comes time for Mr. Hoffa to put on his defense before we start?

THE COURT: All right.

MR. BERKE: And listen to the authorities that we have on that subject?

THE COURT: Yes, sir; yes, sir.

MR. BERKE: Thank you, your Honor.

MR. SCHIFFER: Your Honor, on behalf of the Defendant Parks we make a similar request for an opening.

MR. BRANSTETTER: May that be for all defendants, may it please the Court?

THE COURT: All right. I will deny that request at this time. Are we ready to have the jury return?

End 3
4 fls

TK 4
EW 1

MR. ALEXANDER: If it please the Court, I previously made an oral motion to suppress the evidence joining in the motion made by Mr. Silets. I now have a written motion on that. I would like to file it for the record.

THE COURT: All right, file it with the Clerk.

Let's have the jury return. Call the first witness.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom.)

THE COURT: Good morning, ladies and gentlemen. I have learned to count to 16 so many times I do it in my sleep. I want you to know again that since the last time you appeared in the courtroom that it has been necessary to do a great deal of work that was proper, to the proper trial of this lawsuit. We are now ready to proceed with further testimony in the case. All right.

MR. GRADY: We call Mr. Tweel.

MR. BERKE: Your Honor, may I approach the bench?

THE COURT: Yes, sir.

MR. HAGGERTY: May I inquire of--

THE CLERK: (Interposing) Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. TWEEL: I do.

THE CLERK: Have a seat, sir.

THE COURT: Yes, sir, Mr. Grady.

NICHOLAS J. TWEEL,

a witness called in his own behalf, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GRADY:

Q Mr. Tweel, will you tell the jury where you were born?

A Huntington, West Virginia.

Q And you are an American citizen?

A Yes, I am.

Q Were you raised in Huntington?

A Yes, I was born and raised there.

Q Will you tell us a little bit about your background, not in any great detail, but just a little?

A Well, my father died when I was about eleven years old and during my education in the public schools in Huntington I did various and odd and sundry jobs, such as selling newspapers and working various places. After my public education in the schools in Huntington I became employed with the Pure Oil Filling Station Company as a filling station attendant. Following this I received an appointment with the United States Post Office Department. I went to work for them in 1936 and worked with the Post Office

Department until 1942 when I requested a leave of absence to enter the military service.

Q Are you a married man?

A Yes, I am married. Been married 23 years. Have two daughters. Gail, 20 years old, and Lynn, 18 years old.

Q Do you have any brothers and sisters in your family?

A I have four brothers and two sisters also residing in Huntington.

Q Is this your wife and daughters over here?

A Yes.

Q You say you went in the military service, what branch did you go in and what did you enter as, what rank?

A I was in the Army. I was in the Infantry Branch of the service.

Q What did you go in as?

A I went in as a private.

Q And how long did you stay in there?

A I was in the service approximately four years.

Q What rank did you obtain in your four years of service?

A I was honorably discharged as a captain and I continued to hold that rank in the Reserve Corps.

Q During your service, did you receive any special awards during your military service?

A Well, I received two War Department Army Awards for meritorious and outstanding services.

Q Now, could you tell us what religious, social or fraternal organizations you are a member of?

A Well, I am an Episcopalian. Member of the Trinity Episcopalian Church in Huntington, West Virginia. Shriner. Thirty-second Degree Mason. I am also a member of the Elks and the American Legion and the Y.M.C.A. in Huntington.

Q Now, during your lifetime, Mr. Tweel, have you ever had occasion to serve on a jury?

A Yes, I have.

Q Do you feel like you know the obligations and duties of a person serving on a jury?

A Yes, I understand the sacred obligations of a juror.

Q What has been your employment since you were discharged from the military service and what are you currently engaged in?

A Well, when I returned from the military service rather than go back to the Post Office Department I chose to enter into business for myself. I've been in various business activities both on wholesale and retail level for the last 20 years. Currently in the investment business.

Q Now, do you know Allen Dorfman?

A Yes, I do.

Q Suppose you tell the jury how you met Mr. Dorfman, what your relationship has been with him?

A I met Mr. Dorfman in the early part of 1962. I met him at New York City through a mutual friend by the name of James Calio (spelling) C-a-l-i-o. I believe at that particular time I met Mr. Calio, I believe that Mr. Calio mentioned to Mr. Dorfman that I was one of the incorporators of a new West Virginia Life Insurance Company. When Mr. Dorfman was informed of this he seemed to be quite interested in becoming associated with this insurance company in either directly or indirectly.

Q What other business relationships, if any, have you had with Mr. Dorfman?

A Well, following that meeting while his interest in the company was to the extent he arranged to have Mr. Calio become a director of the board of that particular company. And also I found out at that time that Mr. Dorfman had some contacts with some financial institutions whereby if a person was interested in buying some property he could arrange for some long term loans on some property at the right rate of interest.

Q Of course, Mr. Tweel, there are various records and people who know about this business relationship?

A There certainly are.

Q Have you had any occasion to meet with Mr. Dorfman

in New York City?

A Yes. I believe I met with Mr. Dorfman in New York on either two or three other occasions.

Q Well, let's be a little more specific, please, sir, could you describe these occasions, what the purpose of them was?

A I believe in the early part of the middle part of August, 1962, I met with both Mr. Dorfman and Mr. Calio and we worked out a stock distribution of this insurance company. And following that on another occasion, I think some time in the early part of October, I met with Mr. Dorfman alone and we discussed at that time the possibility of him arranging for some long term mortgages on some properties that myself and my associates were interested in purchasing.

Q There are various people and various records that they will substantiate?

A Yes, all can be substantiated by witnesses and legal documents.

Q Did you have any occasion to see Mr. Dorfman during October?

A Well, I saw him in New York City as I told you the early part of October, then I saw him again in Nashville, Tennessee, on October 21, 1962.

Q Now, do you recall the date in New York in 1962--well, just, I am a little hazy, I am sure the jury is, give

us the dates that you saw him in October and where if you can.

A Well, I don't recollect the first date in October but I do recollect the date that I saw him in Nashville, Tennessee.

Q All right, when was that?

A That was on Sunday, October 21, 1962.

Q And was this in relation to the same business that you had seen him the first part of October?

A Yes, it was.

Q And what was that again, please, sir?

A Well, the previous week to that meeting in Nashville, Tennessee, on October 21, 1962, I had exchanged several phone calls with Mr. Dorfman trying to encourage him to meet me in New York City where I was but it wasn't convenient for him to do so. So I returned from New York to my home in Huntington on Saturday evening, October 20th. And the very next morning at ten o'clock Sunday morning, I hadn't been home, I don't think, ten hours, until Mr. Dorfman called me and told me if it could be convenient for me he would like to have me meet him in Nashville, Tennessee, on that date, Sunday, and we could wind up our business on this insurance company. We were having considerable difficulty re-allocating the company so we could submit our company to the S. E. C. for financing. It was going to be a public financing. He was interested in my business on any property my associates

were interested in. He could review them. So I arranged to meet in Nashville, Tennessee, on October 21.

End Tk 4
Tk 5 fls.

Q Now, did you meet with Mr. Dorfman anywhere besides New York City and Nashville in relation to this?

A No, that is the last place I remember meeting Mr. Dorfman.

Q Did you ever see Mr. Dorfman anywhere except in Nashville or New York in relation to this business?

A I met at his office one time in Chicago, Illinois, following my meeting him and getting acquainted with him, a Mr. Saul Silverman of Miami; we were there to see about the possibility of arranging a loan for Suffok Downs, that's a race track in Boston, Massachusetts, but unfortunately that property would not qualify for a loan.

Q What is this West Virginia building and Pritchard Hotel building,what is it?

A Well,the Pritchard Hotel is a hotel building and the West Virginia building is an office building, they are both located in Huntington, West Virginia.

Q Now, this time that you met Mr. Dorfman in Nashville, was that the first time you had ever been in Nashville?

A That's the first time I'd ever been in Nashville, Tennessee, in my life.

Q About what time did you come to Nashville?

A I arrived in Nashville about 6:15, I guess, I believe it was, I know it was right after six o'clock

sometime, I check in the Andrew Jackson Hotel at Mr. Dorfman's suggestion.

Q What date, please, sir?

A Sunday, October 21st, 1962.

Q What hotel did you check into?

A I stayed at the--, checked in the Andrew Jackson Hotel on Mr. Dorfman's suggestion.

Q And when were you supposed to meet Mr. Dorfman?

A We had intended to have dinner together but apparently he didn't come in until rather late and so I walked over to the Hermitage Hotel in Nashville where I had dinner alone, then I returned to my room, I believe about eight or eight-thirty, and I recollect that Mr. Dorfman came in about ten or ten-thirty, and visited with me rather briefly in my room. He was rather tired and wanted to go to bed early, so we agreed we would see each other in the morning for breakfast.

Q And did you see him at breakfast?

A Well, it was intended that we were to have breakfast together but he was with another group of people and it wasn't practical, so I didn't have breakfast with him.

Q And when did you see him again, just give us all of your contacts with him.

A Well, following breakfast, why, naturally we wanted to discuss our business and he said he was going over to the courthouse, that the trial was going to start that day in

Nashville and wanted me to join him over there, so I went back to my room, picked up my briefcase, and joined Mr. Dorfman over to the courthouse. I think I arrived over there about ten o'clock or something like that.

Q Did you stay in the courtroom until court adjourned?

A Well, I located Mr. Dorfman in the courtroom and I stayed there ratherbriefly, there was a lot of commotion and pretrial motions that I have learned about since I have been in this case here and we didn't get any opportunity to discuss any business over there.

Q That would be on October the 22nd?

A That was Monday, October the 22nd, the following day.

Q Now, did you have any opportunity to see him during the lunch hour that day?

A No, I didn't have lunch with Mr. Dorfman that day, I remember going downstairs to the basement cafeteria in the courthouse and having a sandwich and some coffee by myself, I think around quarter to eleven, something like that.

Q When did you have any opportunity to discuss your business matters with him?

A Well, he wanted to depart Nashville and return back to Chicago, so we left the courthouse about sometime shortly after eleven o'clock and we walked back to the Andrew Jackson Hotel and when we arrived at the Andrew Jackson

Hotel we sat down at a sofa near the registration desk in the lobby there and sat down and talked about our business, I'd say for thirty or forty minutes.

Q Now, while you were in the lobby there talking to Mr. Dorfman did you have occasion to meet this Mr. Partin?

A Well, while Dorfman and I were making conversation a gentleman came over and made himself acquainted or made himself known to Mr. Dorfman as Mr. Partin and Mr. Dorfman promptly introduced me to Mr. Partin.

Q Is that the first time you had ever seen--

A (Interposing) First and only time I ever saw him in my life.

Q Did Mr. Dorfman introduce you to Mr. Partin by your name or as this Quinn as he says?

A He certainly did, he introduced me by my name and I was registered in that room with my correct and proper name and I had never had any occasion in my lifetime to use anything other than my correct and proper name.

Q All right, sir. I will show you a document here and ask if you can introduce it as part of your testimony and identify it.

A Well, this is a copy of my registration at the Andrew Jackson Hotel in my name indicating my New York address.

Q Does it show when you came in?

A On the back are my travel tickets returning from

Nashville to Huntington.

Q Show when you came in and when you left?

A Yes, sir, shows I registered on October the 21st and left on October the 22nd, it appears to me here that I left because I left on Tuesday morning, October the 23rd.

Q Have you ever been in Nashville any other time in your life?

A Not up to this time, no.

MR. GRADY: All right. I'd like to introduce that, make it an exhibit, whatever the number is.

MR. DALE: 155, Your Honor.

THE COURT: All right. Very well, allow it to be introduced.

(The hotel registration and flight coupon referred to above were marked Def. Tweel Exhibit No. 155, for identification and received in evidence.)

MR. NEAL: May we have just a second, Your Honor?

MR. GRADY: I'd like to have that properly marked and passed to the jury, if Your Honor please.

THE COURT: Yes, sir.

BY MR. GRADY:

Q Now, did you have any conversation with this Mr. Partin, did he attempt to converse with you?

A After he introduced himself, rather made himself known to Mr. Dorfman and Mr. Dorfman introduced me to Mr. Partin, Mr. Dorfman was preparing to depart, went upstairs to

get his luggage and I had occasion to talk to Mr. Partin for abou t ten minutes.

Q What did he talk about?

A Well, he told me he was a Teamster official from Louisiana, I didn't know it was Baton Rouge, Louisiana at that particular time, and he further enumerated some difficulties he was having, he was having a bonding problem and was having some trouble with the government, which he recited here, he was under a 28 count indictment, I believe he so stated, and during that conversation he asked me if I knew of a competent attorney in Louisiana and I told him a friend of mine had successfully used a lawyer down in New Orleans that I thought was very competent but I didn't know the man's name at that particular time. That was the extent of my conversation with Mr. Partin.

Q At that time did you make any recommendation to Mr. Partin of any attorney in Louisiana.

A It was my intention to recommend this attorney in Louisiana but I couldn't recollect the gentleman's name at that particular time.

Q Did you ever have any conversation with Partin in your room?

A No. Mr. Partin has never visited my room, contrary to what he said here before the Court and jury. When Mr. Dorfman came down in approximately ten minutes that

he was gone I departed the hotel with Mr. Dorfman and I went directly to the American Airlines where I checked in.

Q Just a second, Mr. Tweel. About how long did you have occasion there--, you said you talked to him until Mr. Dorfman left, is that what you said?

A No, I was talking to Mr. Dorfman when Mr. Partin came down and Mr. Dorfman decided to depart Nashville. He went up to his room to get his luggage and check out, that took approximately ten minutes.

Q That's what I wanted.

A That's the extent of my conversation with Mr. Partin, and that was the last and only time I had ever seen Mr. Partin.

Q Did you ever see him again that day?

A No, I did not.

Q Did you ever see him again at all?

A No, I did not until he arrived on the stand here at this trial.

Q Now, you say it was about ten minutes until Mr. Dorfman arrived downstairs preparing to leave with his luggage?

A Yes, he had his luggage with him preparing to depart Nashville.

Q Can you tell us about what time that was, do you recall?

A Oh, I'd say it was about shortly after twelve o'clock, I couldn't say exactly what time it was.

Q Now, I interrupted you there. You were explaining to the jury something about your airline schedules.

A Yes. I accompanied Mr. Dorfman outside the hotel, since he was departing, I desired to depart also, so I went directly to American Airlines, whose offices are in the Hermitage Hotel in Nashville and checked my departure schedules to return to Huntington. There was no departure schedule that afternoon and the earliest departure was at eight o'clock Tuesday morning, the following morning, so I made reservations to return to Huntington accordingly.

Q Well, after you checked your airlines and so forth, were preparing to leave or trying to leave, when did you return to your room that day?

A Well, following making reservations at American Airlines I made several long distance calls to business friends of mine and associates, which are indicated on my credit card sheet, and then I returned to my room about five o'clock to prepare for dinner that evening.

Q Now, when did you say was the first plane you could get out of Nashville to Huntington?

A The first plane to be exact was eight-fifteen in the morning, American Airlines, to return me to Huntington, West Virginia.

Q Is that the plane you left on?

A Yes, it is, I left the following morning.

Q Now, Mr. Tweel, do I understand you came in one day, you stayed one day and left at eight o'clock the next morning?

A " I came in on Sunday around six o'clock and I left the following Tuesday morning at eight-fifteen. My travel records will indicate that.

Q All right. Can you tell us how you--, you said you got back to your room, as I understand, about five o'clock that evening.

A That's right.

Q Now, can you tell us who you spent your time with that night and what you did?

A Well, I prepared for dinner around five o'clock and I believe I called my wife, if I am not mistaken, when I returned to my room and took a shower and then prepared to have dinner with some friends in the Surfrider room of the Andrew Jackson about seven o'clock.

End Tk 5

Tk 6 fol.

Q What else did you do? Give us the whole evening, what time you spent.

A Well, we had dinner at seven. There were two couples there who invited me out to visit two or three night spots in Nashville, Tennessee. And I wasn't particularly tired at that time, so I accepted their invitation. We left the Surf Rider Room about 11:00 o'clock or 11:30, I believe it was. May have been a little later than that. Miss Rippey and Miss Pettijohn accompanied these two gentlemen. I went along sort of an uninvited guest. We left by cab. We went to a place called the Black Poodle. I remember that place in particular because the name was rather odd.

The next place we went to I don't recall the name. Then we finally ended up at a place called the Sportsman's Lounge in Nashville also. One of these after-hours clubs.

Q Is that where you met this fellow Hall, Dallas Hall?

A Yes, I was introduced to Dallas Hall there by Miss Rippey and apparently he was the owner and operator of the establishment. That is the first time I ever met that gentleman in my life.

Q Had you ever known any of these people in your company, Miss Rippey or Miss Pettijohn?

A No, sir. I never knew any of them before in my life.

Q How long do you think you stayed at this Sportsman's Lounge?

A I would say about three-quarters of an hour at the most.

Q During this time did you ever have any occasion to have any conversation with Hall?

A Yes. The two couples were engaged in dancing and so I had no choice but stand up at the bar and talk with the only person left there to talk to which was Mr. Hall. And we engaged in very lengthy conversation a person generally engages in when he is by himself. We talked primarily about horseracing. Because he had some little horses on the back of his bar and I took an interest in inquiring about his interest in horses. And he seemed to be quite an avid horseracing fan.

We discussed politics. And I honestly believe we discussed the Hoffa trial that night, although Mr. Hall testified that we didn't. I honestly believe that we did, because it was an important subject at that time just like it is here in Chattanooga. So I wouldn't say he was wrong on this. He said we didn't, but I honestly believe we did.

Q In other words, this trial was the topic of conversation because it was coming up some time in the future?

A Well, I would say just like it has been here in Chattanooga. You can't hardly go anywhere unless somebody asks you a question about it.

Q Now, was that the extent of your conversation with Mr. Hall?

A No, he asked me what my general business was and I told him among other things I was associated with racing business out in California. Then he began to tell me that he visited two racetracks near Nashville, Tennessee, namely, Dade Park and Miles Park quite often. He was quite a racing enthusiast. And when he mentioned Dade Park I told him some associates of mine were interested in purchasing Dade Park. One of them, Mr. Alberding, who owns the Hermitage Hotel in Nashville, Tennessee, and Mr. Hall stated that he would like nothing better than to become a stockholder in a racetrack. And if the deal would be consummated and there was a public distribution of the stock he would like to buy some stock in it. I told him that would be perfectly all right.

When mention was made of Miles Park, that is in Louisville, Kentucky, I informed Mr. Hall that Mr. Horace Wade, manager of Miles Park, was associated with me in the ownership of the Waterford Park near Pittsburgh, Pennsylvania. When that remark was made, he asked me would I be kind enough to secure for him two annual passes to Miles Park which I told him as a matter of courtesy I would try to get one through Mr. Wade when the season approached.

With that he asked me, he offered me his business card and it was printed out. And he asked me if I had a

business card and I told him I didn't have a business card. I don't carry business cards. And he asked me for my name and address and phone number which I might gave him. And I gave them to him. And that was the extent of our conversation in that particular place.

About that time the two couples were preparing to depart, so I left with them. They dropped me off at the Andrew Jackson Hotel where I went directly up to my room.

Q On these racetracks, is that an investment or are you in the racetrack business?

A Well, they are a combination real estate investment and also as a business. Most of the major tracks in the United States are owned by public generally. Racetracks, like Santa Anita or Waterford Park, must have 10,000 stockholders. They all have the stock on the stock exchange just like any other business.

Q Excuse me, sir, after you left there did you state whether or not you returned directly to your hotel?

A Yes, the two couples dropped me off at the hotel. I went directly up to my room. Left a call to be awakened at 7:00 a.m. because I knew my plane was leaving about 8:15 a.m.

Q Can you tell us about what time the two couples dropped you off at the hotel?

A Well, my judgment would be about 2:00 o'clock in

the morning, it may have been a little bit earlier, and a little bit less.

Q And you caught the plane the next morning at 8:00 o'clock?

A I caught the American Airlines plane left Nashville, Tennessee, at 8:15 in the morning.

Q Do you have a copy of your airplane ticket?

A Yes, they are attached to my hotel registrations.

Q Now, Mr. Tweel, did you have occasion during your Nashville visit to become acquainted with Mr. Hoffa here?

A No, I had no occasion to meet Mr. Hoffa. I did observe Mr. Hoffa in the lobby of the hotel. I observed him at the courthouse. And I think those are the only two occasions I have ever seen Mr. Hoffa. I have never had any occasion to meet him.

End 6
6a fls

Q Did Mr. Dorfman introduce you to him?

A No, he didn't.

Q Can you tell us when you saw Mr. Hoffa again?

A The next time I saw Mr. Hoffa we were being arraigned together in Nashville, Tennessee and I don't know how I got involved with him myself. We were being arraigned there at Nashville, Tennessee. And I didn't even meet him on that occasion.

Q All right. When you left Nashville that morning as you have testified about on October 23rd, what time did you get to Huntington that day back home?

A I think I changed planes at Cincinnati. And I think I returned home on Peidmont Airlines. I think my travel tickets will indicate that. And I arrived in Huntington, West Virginia I think in the afternoon around one-thirty or two o'clock.

Q Did you go to your office after you got there?

A I went directly to my private office, and--

Q (Interposing) Were you informed of some family illness?

A I was informed that my oldest brother was very seriously ill and he needed some immediate treatment. Needed some immediate surgery. He had to have a major portion of his stomach removed and he was in a business called the Mayflower Distributors. And I--

Q (Interposing) Just a second, please, sir, is that the brother you are talking about now that you are stating needed immediate surgery that ran and operated this business that is known as the Mayflower Distributors?

A Yes, that's right.

Q Is that where Miss Fulton was employed?

A That's right.

Q And that was your brother's business?

A That's right.

Q Now, in view of those circumstances, what happened?

A Well, we had to make some disposition of that business for my brother because we knew that he would never be able to return to work. So my brother Charles and myself went down to my brother's place of business and introduced ourselves to the help. The first occasion I had to meet Miss Fulton. She was already employed when I arrived. We explained to the help going to have to sell the business. That my brother was seriously ill. Would have to have surgery. Would never be able to return to that business again.

Q How long did it take you to make disposition of this business for your brother?

A Well, when I was in Huntington, West Virginia I spent the greater part of the afternoon and evening at this particular business arranging proper disposition. I wouldsay it took about four months to dispose of my brother's equity and

we transferred it to two gentlemen by the name of Mr. Kirk and Mr. Dunn (Spelling) K-i-r-k and D-u-n-n.

Q Now, you say you were in and out of Huntington, West Virginia, can you tell us where you traveled to and from from the time you left Nashville on October 23rd to, let's say, February 1, 1963?

A Well, at that particular time I commuted between Huntington, West Virginia and New York City. I spent approximately two weeks out of each month in New York and the other two weeks I spent at my home in Huntington, West Virginia. I think my travel records will indicate my whereabouts during that period of time was New York City and Huntington, West Virginia.

Q You do have records to substantiate all of these?

A Yes, I keep very accurate records for income tax purposes. At least I think I keep accurate records. Sometimes the government may not think so.

Q Did I understand you to say that Miss Fulton was already employed at this--

A (Interposing) Yes, she had been employed either a week or ten days or two weeks before I met her. And she had been employed by my brother, Sam, which is contradictory to what she said here on the stand I know, but that is the first time I ever met the woman.

Q Be a little more specific, did you ever have any

occasion to return to Nashville during this period I have asked you about?

A Absolutely not.

Q Or to travel any other places besides New York City or Huntington, West Virginia in the pursuit of your business?

A No, just I just commuted between Huntington, West Virginia and New York City.

Q And you do have your travel records?

A Sir?

Q You do have your travel records?

A Yes, my travel records will support that statement.

Q Now, when did you first meet this Miss Fulton?

A Well, when I arrived from Nashville on October 23rd, went to my private office where I was informed about my brother's illness. And I think the following day which would have been Wednesday, October 24th, I went down to my brother's place of business. Told him going to try to take him out of that place of business and that is the first occasion I had to meet her.

Q Now, this Miss Fulton's testimony as I recall indicated she was employed by you, is that true?

A That is not true. That is the first time I ever saw Miss Fulton was on Wednesday I believe October 24th and she was already in the employ of my brother.

Q As I recall she further testified that you controlled the business, could terminate her employment at your will, and pleasure, is that true?

A That is not true. I did not own one share of stock in that business whatsoever. Had nothing to do at all with the hiring and discharging of the personnel. The business was transferred I think the following week to Mr. Dunn and Mr. Kirk who maintained ownership of the business until the next year.

Q Now--

A (Interposing) And the records will so indicate that. In the office of the company. And I imagine the payroll records.

Q Miss Fulton in the testimony there testified that her bond, she was bonded by the A. Gordon Mary Insurance agency, is that true?

A Well, I recall the early part of the year I believe it was I don't know the exact date, but she was refused bond by the A. Gordon Mary Agency although she took the stand and said she was under bond and she said that. This letter from the company to show to the Court and jury she was not approved for bond.

End 6A
Tk 7 fol.

Q In other words, that is another untruth?

A (Witness moves head up and down.)

MR. HOOKER: I think we are getting into another collateral matter, if your Honor please.

MR. GRADY: Part of her testimony, part of her direct testimony.

MR. ALEXANDER: Directly refuting something that Mrs. Fulton testified to.

THE COURT: Proceed.

A This is a registered letter to the President of the Mayflower Distributors indicating therein that they were unwilling to cover her under bond.

MR. GRADY: We'd like to have the Court's permission to introduce the exhibit and have the jury see it.

MR. ALEXANDER: And read it to the jury.

MR. HOOKER: This is long after she had done any work for this witness, if your Honor please.

THE COURT: Allow it to be identified for identification and sustain the objection. Mr. Officer, could we have some ventilation in the courtroom, Mr. Sertel?

(The letter from the A. Gordon Merry Agency of 7-15-63 was marked Defendant Tweel's Exhibit No. 156 for identification only.)

THE COURT: Proceed.

BY MR. GRADY:

Q What was the date of that letter, Mr. Tweel?

A I didn't notice the date but apparently it's on the letter.

MR. GRADY: In view of Mr. Hooker's remarks, I'd like to have that date established. What is it?

MR. DALE: July 15th of '63.

BY MR. GRADY:

Q Now, Mr. Tweel, you have stated you spent considerable time at your brother's place of business in October and November and December of 1962, is that correct?

A Yes, that is true. He and his wife operated that business and we had to take them both out, he had to have some immediate treatments and very seriously ill and they did finally remove his stomach, so I had to stay there in the course of afternoons and evenings in making an orderly transition of that business to the new owners and it took some time and some difficulty to do that. The business was not, I would say, a real profitable business but it was a going business and had to be transferred to new owners.

Q When you were in Huntington, how often did you have occasion to go by the place?

A Well, during that period of time in the latter part of October, November and December, when I was in Huntington I would always go down every afternoon towards the evening and stay until rather late in the evening reviewing the records of the business and seeing that they

were paying their bills and just various things in connection with transferring the business over to new owners.

Q Did this Mrs. Fulton, was that an occasion--have difficulty in that she could not be bonded, did you ever have any bond on her in your records that you saw?

A I don't quite understand the question, Mr. Grady.

Q This Mrs. Fulton, were you ever able to get her bonded?

A Well, apparently the people that have the business had been unable to get her bonded, as far as the letter indicates, I don't know whether she has been bonded since or not.

Q Now, when you had occasion to be over at this business, this Mayflower Distributors, did you have an office of your own over there?

A No, I did not. There was only one office at this particular place of business and I would say it was about three times the size of that jury box and inside of that office was two desks adjoining each other with a telephone on each desk and Mrs. Fulton utilized one of the desks in the office and the cashier utilized the other one, so I would just make use of that office and those facilities, the telephone on the desk if I needed one.

Q Is this the office you used in the transaction of your business?

A At that particular place, yes. I had a private office of my own in another part of the city. I had no occasion to need an office at this particular place.

Q Anything that took place there was in this small office?

A That is correct.

Q Now, did you receive any phone calls at the Mayflower office during that period that I asked you about, October, November and December, 1962?

A Yes, I did. I had my private office transfer any calls that came in for me to Mrs. Fulton's office and my phone records will indicate that I make approximately ten long distance calls a day and I imagine I receive that many, so my telephone conversations pertaining to business are quite frequent, so I did have my calls transferred to Mrs. Fulton's office during this period of time.

End Tk 7
Tk 7A fls.

Q Well, now, just you say ten a day. Give us to the best of your previous knowledge, the best estimate you can about how many phone calls you get a month, long distance, or make.

A Well, I would say I make about 300 long-distance calls a month, and I perhaps may receive as many as 250 or 300. When you make a call you generally get one or you generally get a call to make a call.

Q So during that period that I am questioning you about of October, November and December, 1962, that would be that you made approximately a thousand long-distance calls?

A I would say that my telephone records and the records that the government supplied me with here during the last day of the trial will so indicate.

Q And did you receive and make these long-distance calls when you were at Miss Fulton's office at the Mayflower Distributors?

A Yes, I did.

Q Now, what was your procedure on these calls as to how you returned them and so forth?

A Well, Miss Fulton's office, and being a small business, they like to keep their lines open in case somebody called and wanted to give the company an order and as to long-distance calls they generally take four, five, maybe ten minutes.

THE COURT: Mr. Tweel, I am having a little difficulty hearing you.

A I am sorry. So I instructed her when the calls came in during the course of business to take the number of the caller and I would screen those calls toward evening and call back those calls I was interested in calling back, the calls that I wanted to answer because I didn't want to keep the line tied up at her particular place of business, the Mayflower Distributors office.

Q Now, did you have occasion during this period of time, these three months, to engage in long-distance calls with Mr. Dorfman?

A Yes, I say I engaged in several long-distance calls with Mr. Dorfman, maybe on the average of one a week, maybe two a week, the records will verify the calls that were made and, of course, his records would verify the calls that he made to me.

Q Could you give us an estimate of about how many during that period?

A Oh, I'd say maybe a dozen or so.

Q All right, sir. Can you tell the jury the nature of these calls?

A Well, pursuant to our meeting of the board of directors of the insurance company on October 12th at Huntington, West Virginia, our SEC counsel who attended that meeting,

a Mr. Zito was concerned about submitting our situation to the SEC with the stock not being properly allocated, there was too much stock in this insurance company in two or three individuals' names, and he wanted us to reallocate that stock if we could do so and a certain group would lose control of the company, so that was a major problem that we tried to solve but we never did get it solved and in addition to that, of course, I was negotiating with Mr. Dorfman for some long-term loans on some business properties that myself and my associates were interested in, so all the calls that Mr. Dorfman and I exchanged the subject matter of those calls pertained to the insurance company and these building properties I was interested in.

Q Well, was any agreement finally reached on this insurance company matter?

A No, we tried to finalize some arrangement to allocate that stock but there were so many problems created by the government that we dissolved that company before we even submitted it to the SEC and we all took a loss.

Q Now, there are various people and various records that are available?

A There will be several witnesses to testify and substantiate my testimony in that respect.

Q What was done on the building properties that you referred to in your testimony?

A Well, likewise, the problems created here, nothing has ever materialized on those either. In fact, my personal problems became greater than the business problems.

Q Did you submit any information to Mr. Dorfman relative to loans on these buildings, if so, who knows about it and how was it done?

A Yes, I submitted two brochures to Mr. Dorfman sometime in the latter part of November that were prepared by my counsel at Huntington, West Virginia, Mr. McNear, Sr., and by my Certified Public Accountant, Mr. Bagby.

Q Did you submit this information to Mr. Dorfman?

A Yes, I mailed that information to Mr. Dorfman.

Q Do you recall when?

A Sometime the latter part of November, I think my counsel's records on the date he acquired this information will substantiate, it was sometime the latter part of November.

Q Now, had you been working with other people and with the owners of these properties before your meeting with Mr. Dorfman?

A Yes, I was in constant communication with Mr. Alberdine, who owns the Hermitage Hotel at Nashville, Tennessee, and is the president of the Allison Hotel chain, his offices are in Chicago, Illinois, he owned the Pritchard Hotel Building in Huntington, West Virginia, which we were

interested in acquiring, I was in touch with Mr. Jerome Ricker of New York City who owned the West Virginia Building in Huntington, West Virginia; I also had a meeting in Washington, D. C., with a Mr. Tom Harvey who is chief counsel for the Area Redevelopment Agency. Huntington, West Virginia, is considered to be a very highly depressed area and the government sometimes has a tendency to lean in that direction in making loans that might help the financial stability of an area where there is depressed conditions.

I met with Mr. Harvey in Washington to discuss the possibility of getting a $700,000 loan on the Pritchard Hotel Building and he will be here to testify and substantiate that statement.

I also met with Mr. Gran Beckett, president of the Huntington, West Virginia, Trust and Savings Bank in Huntington, West Virginia, who was interested in working out a loan arrangement on the West Virginia Building.

Q Now, were you working with the owners of these properties and these other people you are testifying about here in the last few minutes prior to your meeting with Mr. Dorfman?

A I would say prior to or/and following my meeting with Mr. Dorfman.

Q Can you recall anybody else that you discussed loan possibilities for these properties during this period

with?

MR. HOOKER: Well, we think that is going too far afield, if your Honor please.

MR. GRADY: Well, we are trying --

A (Interposing) I don't recall anybody else at this time.

MR. GRADY: Just a second. We are merely trying to show --

THE COURT: (Interposing) Go ahead.

MR. GRADY: The actual nature of the contacts.

THE COURT: Well, he answered, Mr. Grady.

MR. GRADY: All right, sir.

BY MR. GRADY:

Q Now, Mr. Tweel, the government seems to place some unusual and extraordinary emphasis on a telephone call made to you on November 27th, 1962, by Mr. Dorfman. Can you tell us about this call?

A Well, I never did recollect the exact date, but they seem to place considerable emphasis on the call of November 27th, which the records show that apparently he did make and that call was just one of a series of calls that he and I exchanged regarding our business matters.

End 7a
8 fls

Q Well, it appears that Miss Fulton was brought in here to testify that Mr. Dorfman read her a list of names over the telephone. Is that true?

MR. REDDY: May it please the Court, we submit that is argumentative.

THE COURT: Sustain the objection to the form of the question.

MR. GRADY: I will change the form, your Honor. Sorry.

BY MR. GRADY:

Q To your knowledge, did Mr. Dorfman ever read anybody a list of names or do you know anything about a list of names read to Miss Fulton?

A I do not and, furthermore, Miss Fulton, I know has never engaged in any conversation with Mr. Dorfman or anybody else that I have conversed with on the telephone.

Q Have you ever talked to Mr. Dorfman about anything over the telephone except these properties you have testified about?

A Nothing whatsoever, we had no other business relationship other than the properties and the insurance company.

Q Now, Mr. Tweel, can you tell us about any phone conversations with a Dallas Hall during this period that you were in the Mayflower Distributors?

A Yes, Miss Fulton has testified in her Jencks statements, which are FBI reports and also her testimony I understand here that she handled several incoming calls from a Mr. Dallas Hall which is true. I never initiated any call to Mr. Hall. He called me with reference to these passes to Miles Park and also he discussed the sale of the Dade Park Race Track with me very thoroughly.

MR. NEAL: May it please the Court, we move that that answer be stricken. He should testify if he wants to testify and not try to summarize what may or may not have been said by Miss Fulton.

THE COURT: Sustain the objection. Strike the answer. Not responsive.

BY MR. GRADY:

Q Let's put it this way then, sir, without referring to the FBI report, did you make any calls to Dallas Hall or did he call you?

A We responded to his calls. Miss Fulton would make a memorandum that he called me several times and on two occasions I know we didn't reach him and according to his testimony we only engaged in three telephone conversations and I believe he is right.

MR. NEAL: The witness, your Honor, the witness is referring to other people's testimony. He should also point out that Mr. Hall testified that he never called Mr.

Tweel.

MR. GRADY: We are trying to point that out.

THE COURT: Proceed.

MR. NEAL: Just like the witness testifies what is in his knowledge, rather than sitting over here listening to the testimony and summarizing it.

THE COURT: Let's just respond to the question.

MR. GRADY: Your Honor, I thought he responded.

THE COURT: Well, he did. Let's proceed.

MR. GRADY: All right.

BY MR. GRADY:

Q Go over it again, did you ever call Mr. Hall? If so, why?

A I answered that question that Mr. Hall called me initially and left word to have me call him. He did that on various occasions.

Q Do you recall about when Mr. Hall first called you?

A I believe it was in the latter part of October he called and I think we returned that call and he could not be located and I never heard from him until some time in November.

Q What was your conversation with Mr. Hall?

A Well, primarily Mr. Hall was interested in becoming a stockholder in the race track. He thought if this

Dade Park sale was effected Mr. Allison will certainly substantiate my testimony that he wanted to be a stockholder and he was quite interested in getting two passes to Miles Park, which I told him I would arrange for at the proper time.

Q Was there ever any occasion for you or Mr. Hall to discuss in these phone conversations anything about the Hoffa trial?

A Yes, on one particular occasion Mr. Hall informed me that some newspaper reporters had been in his place the previous evening. And he said he had recollected us discussing the trial at his place the first night I met him, which I stated here honestly I believe we did, although he said we didn't. And he asked me if I was still interested in the case and I asked him why. He said he thought he might be of some help to me. I told him I had no further interest in the case in any way, shape or form. That was the extent of my conversation with Mr. Hall regarding it.

Q Mr. Tweel, that is the extent of your discussions with Mr. Hall regarding the Hoffa case?

A That is true. I would say he would like to have probably been of some assistance in some manner. I never asked Mr. Hall to do anything and above and beyond Hall to do anything wrong. I never asked him to do anything. Apparently he wanted--

Q (Interposing) Did you ever read to him any list

of jurors on the telephone?

A No, I did not. And if I had read Mr. Hall a list of the jurors over the telephone, Miss Fulton, her desk and the two adjoining telephones which are four feet apart would certainly have heard me do so.

Q Do you have available or can you furnish the jury with a picture of that office up there showing the physical situation?

A Yes. I believe the photograph was made of Miss Fulton's office showing how close the two desks are and how close the two telephones are. And I believe it may be in the possession of Mr. Alexander or Mr. Jenkins. I do not know.

MR. GRADY: Your Honor, I showed that photograph to somebody. I don't seem to have it available now. We would like to be able to introduce it later.

THE COURT: Proceed.

MR. GRADY: If there is no objection.

BY MR. GRADY:

Q Now, Mr. Tweel, if you had desired to get information concerning the Hoffa jury, do you know or can you name acquaintances that you have in Nashville that you could rely upon for such information?

A If I personally desired it and had sufficient interest to get any information on the Hoffa jury, I know

Daniels, Attorney at Law, in Nashville, Tennessee. I know Buford Hipps who has been a friend of mine for 17 years and his brother is the managing editor of one of the newspapers, Clyde Hipps. And I know Mr. Alberty who owns the Hermitage Hotel who has 200 employees. And I know Mr. Schoenbaum who owns the Shoney's Drive-Ins in Nashville. So I could have discussed the situation if I was so interested.

Q Mr. Tweel, likewise, here in Chattanooga, where you are now on trial, are you acquainted with people who could have discussed the original jury list with you if you had wanted such information?

A Yes, I know Mr. Miller of Miller's Department Store and his wife, Nancy. I know Bernard Cohen an attorney here in town who is from my home town in Huntington.

MR. NEAL: Your Honor, it is difficult to--

THE COURT: (Interposing) Sustain the objection.

MR. GRADY: Would you for the record, would you state the grounds of your objection?

MR. NEAL: Irrelevant.

THE COURT: Talking about people he knows here in Chattanooga.

MR. GRADY: That he could have gotten information about the jury from if he wished to.

THE COURT: Sustain the exception.

BY MR. GRADY:

Q As I understand, Mr. Tweel, then you are testifying here under oath that you neither received a list of jurors from Mr. Dorfman nor did you read them off for Mr. Hall?

A That is absolutely true. I would like to elaborate on that if I may.

Q Yes, sir, go ahead.

A They brought this subject up here in the courtroom, it is so ridiculous for somebody to mention if he had a list--

MR. REDDY: May it please the Court, that is in the nature of argument.

THE COURT: Sustain the exception.

BY MR. GRADY:

Q Please just make your statement about it without arguing about anybody's testimony.

THE COURT: It would be better to proceed by question and answer, gentlemen, rather than just telling the witness to talk about a matter.

MR. GRADY: All right, your Honor.

BY MR. GRADY:

Q Do you know of any reason why Mr. Hoffa would phone you at Huntington, West Virginia, from Nashville to give you a jury list to phone right back to somebody in Nashville?

End Tk 8

A I wouldn't know of any sane reason for doing that. Would be too simple for him to --

Q (Interposing) Don't state your opinion about how ridiculous it is, Mr. Tweel.

A No, I do not know of any reason whatsoever.

Q Say if you do or do not know. Mr. Tweel, during this same period you are supposed to have engaged in several telephone conversations with Mr. Partin, is that true?

A Well, that was a very strange fact. Mr. Partin, where he got my telephone number I have no idea unless the government gave it to him, apparently he must have been overzealous to cooperate with Mr. Sheridan. But he called me on each occasion he called me, and Miss Fulton has testified to that fact that she handled calls periodically from Mr. Partin. His conversations, his first conversations concerned the name of an attorney that I had mentioned to him when I met him in the lobby of the Andrew Jackson Hotel. And I found that name for him and I gave it to him. And the rest of his conversations were rather rambling. And just, I just listened to him, didn't make good coherent sense to me, and I don't know why he was calling me. Likewise, in one of my conversations with Mr. Dorfman explained to me that this fellow Partin had called me four or five times and made some conversation, I didn't even understand. But I only recollect in my conversation with him that I gave him the names of an

attorney in New Orleans and he called me later and asked me what I thought of a fair legal fee was and I told him I didn't know because I had never engaged that attorney myself.

End 8a
9 fls

Q Now, Mr. Tweel, I believe the records indicate here that he called you on November the 27th twice and December the 4th, do you recall the general content of these conversations?

A No, I do not. But since this trial has commenced here I can see some link between Mr. Partin and Mr. Hall, I don't know what it might be but if the records show that he called me earlier that day maybe there was some preconceived idea of why he should call me, I don't know. I know as many phone calls as I make I can't remember who called or who I called.

Q Mr.Tweel, Mr. Partin has testified that his phone conversation with you covered other matters than that what you have related here to the jury, is that true?

A Well, I have no recollection of any other matters besides his bonding problem and I do recollect that he wanted to borrow $5,000.00 off of me on the telephone.

Q Now, was he still calling you after this trial in Nashville was over?

A Yes, he called me, I think it was very near the first of the year, the trial was over at Nashville and he was still calling me.

Q Mr. Tweel, tell us when you were served a subpoena to appear before the Grand Jury in Nashville, Tennessee.

A I was served a subpoena on January the 29th, 1963,

to appear before the Grand Jury on February the 1st, if those dates are correct.

Q Did you appear?

A Yes, I did.

Q And when you arrived there, were you taken before the Grand Jury?

A No. When I arrived I was ushered into Mr. Sheridan's office and they asked me if I would sit down and talk to him personally for a few minutes and I told them I would be glad to.

Q Now, what was your conversation with Mr. Sheridan?

A Well, Mr. Sheridan asked me about my personal background and my family and my business dealings and wanted to know if I knew an Allen Dorfman, which I told him I did.

He wanted to know how I met Mr. Dorfman. He asked me a series of questions.

Q Did he examine anything out of your pockets at that time?

A Well, he noticed I had an address book with me and he asked me if he could see my address book and I reluctantly let him have it, I wasn't ashamed of anybody in it so I told him he could look it over.

Q Now, after this little preliminary interview did you then--,

A (Interposing) He further, Mr. Sheridan further

informed me that if I would answer the questions in the Grand Jury right I wouldn't have any trouble and I didn't even know what he was talking about.

Q After this little preliminary briefing were you allowed to go before the Grand Jury?

A Yes, I went before the Grand Jury.

Q Who asked you the questions there in front of the Grand Jury?

A I was interrogated by Mr. Neal here and a Mr.--, I don't recall his name but he was the foreman of the foreman of the Grand Jury.

Q About how long were you in the Grand Jury?

A I would say approximately one hour.

Q Now, I will ask you whether or not you were perfectly willing to cooperate with them in any way?

A Oh, yes, I didn't even have counsel with me, I didn't have a lawyer or nothing. I just cooperated with them and told them the complete truth freely and without any reservation.

Q Generally what was your testimony before the Grand Jury?

A Well, Mr. Neal asked me about the same series of questions Mr. Sheridan asked me about my background and my business affiliations and associates and what I was doing in Nashville and how I became acquainted with Mr. Dorfman and

whether I knew Mr. Dorfman or not.

Q Did they ask you any other questions relating to your personal life?

A Yes, they asked me some personal questions concerning my personal life which I don't believe they had any right to ask, I think they were very un-American and undignified but I answered them to the best of my ability.

Q Now, after you had appeared before the Grand Jury and told them everything you knew about it, did they have some further treatment for you?

A Following my Grand Jury appearance I believe either Mr. Sheridan or Mr. Neal asked if I would consent to be interviewed by three or four people there with the Federal Bureau of Investigation. I told them I would be happy to and I think I sat down and talked with them about a half an hour and they asked me the same general line of questions that both Mr. Sheridan and the Grand Jury asked me.

Q Do you recall any of the agents in this trial?

A I believe Mr.Sheets, who I have noticed here, was at that particular--, with that group, I wouldn't say certainly but I seem to remember him.

Q Now, what did you tell them in this interrogation, just generally?

A I gave them the same general answers I gave Mr. Sheridan and the Grand Jury. I was only in Nashville one time

in my life that one particular day.

Q After this interview where did you go?

A I was accompanied downstairs to the ground floor exit of the Federal Building by Mr. Shaffer and before departing we were shaking--, Mr. Shaffer said, "Mr. Tweel, I would appreciate it very much if you would reconsider your testimony and cooperate with us in helping prosecute Mr. Hoffa."

And I informed Mr. Shaffer at that time that I had no plans or no intention of destroying my personal integrity and that I would not commit perjury or tell any lies to get anybody implicated and I told the Grand Jury and Mr. Sheridan and the FBI agents, I gave my testimony freely, completely and truthfully, I let Mr.--, I left Mr. Shaffer with those remarks.

MR. GRADY: I'd like to have that exhibit passed to the jury.

MR. DALE: What exhibit is it?

MR. GRADY: Showing his testimony in Nashville and--

A JUROR: Your Honor, may we have a recess?

THE COURT: All right. Yes, let's take a ten minute recess.

(Thereupon, a ten minutes recess was had.)

THE COURT: You may proceed, Mr. Grady.

BY MR. GRADY:

Q Mr. Tweel, you have represented your extensive business--

MR. BERKE: (Interposing) Your associate, Mr. Alexander, is not here.

MR. GRADY: That's all right.

BY MR. GRADY:

Q You had related your business dealings with Mr. Dorfman. Did you have any other business dealings with him besides what you have related there the buildings, the West Virginia Building and so forth and the loan and the insurance company?

A Well, there was an association also with Mr. Dorfman on this Continental Tobacco Company, that was prior to the insurance relationship and the loan relationship.

Q Now, Mr. Tweel, have you ever had any interest in any jury list or trial of Mr. Hoffa or anything of that sort?

A Well, naturally I never had any interest in it. When I saw Mr. Dorfman at the courthouse I believe I did look over a jury list at the courthouse there but I had no interest in the case.

Q Do you recall were these jury lists printed in the local paper?

A Yes. Of course,everybody knows jury lists are

printed in the paper and they are available to the public in general and I remember at this particular time that Mr. Dorfman--, there were several lists available in the courthouse, just like our own lists here are available.

Q Now, when you returned to Huntington after you had been through this series of interviews with various people and so forth did you--, do you have a regular lawyer in Huntington?

A Yes, I have used for 17 years an attorney in Huntington, West Virginia by the name of Seldon McNear, Sr. When I returned from my Grand Jury appearance I--

Q (Interposing) Did you advise him about this proposition made to you of getting Mr. Hoffa?

A I returned to Mr. McNear and reported to him in detail the instances that took place during my appearance in front of the Grand Jury with Mr. Sheridan and the government agents and I explained to him what I was told by Mr. Shaffer and he told me that under no circumstances should I change my testimony or I would be indicted for perjury and for me to stick to the truth regardless of what happened.

Q Well, without going into too much of what he told you, sir, later on was this Miss Fulton subpoenaed to the Grand Jury?

A Well, she was subpoenaed after I. I appeared, now, I went--, I was subpoenaed to the Grand Jury again a week

later, she was subpoenaed following my second appearance.

Q I see. And did she and you or she and your lawyer meet at any time to discuss the case?

End 9

tk 10 fol

A No, we didn't. She called me when she got the subpoena. And I told her to go down to Nashville and tell them the complete truth that there was no harm, no wrongdoing done by anybody. If I had been fearful myself I would have taken an attorney with me on my first visit.

Q Did she call upon you after her appearance to advise with any lawyer and did you recommend yours to her?

A No. She gave some testimony to my attorney sometime in August 1963. That was several months after the indictment.

MR. GRADY: You may ask him.

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Tweel, I understand the first and only time that you were ever in Nashville was when you arrived there on the night before the commencement of the Hoffa trial in the United States District Court?

A Yes. I arrived in Nashville approximately 6:00 o'clock Sunday evening, October 21st.

Q And you spent the first day of the trial of the United States versus James R. Hoffa, Monday, October 22, in Nashville?

A That is true.

Q And the evening of Monday, October 22nd, and left the following day?

A I left Tuesday morning, 8:15, on October 23rd.

Q Tuesday morning, wasn't it?

A That's right, sir.

Q In other words, you stayed in Nashville Sunday night and Monday and Monday night and left Tuesday morning, is that right?

A I didn't understand that, again, Mr. Hooker.

Q You came in on Sunday night?

A That is true.

Q Spent Sunday night?

A And left Tuesday morning.

Q Monday, the first day of the trial, and left on Tuesday morning?

A That is correct, sir.

Q Is that correct?

A Yes, sir.

Q Now, where --, where did you see Mr. Dorfman during that trip?

A I saw Mr. Dorfman the first time on Sunday evening. He arrived late, he stopped by and visited me at my room rather briefly.

Q What time of night was it?

A I would say around 10:30, something like that.

Q You saw him briefly that night, when did you see Mr. Dorfman again?

A I saw him Monday morning around breakfast time in the lobby of the hotel.

Q And you all went from there to the United States District Court together?

A No. Mr. Dorfman went ahead of me with a group and I followed over by myself.

Q Did you spend the morning at the United States District Court on Monday morning?

A I spent maybe a couple of hours or so there. I wasn't there during the whole court proceedings.

Q Then, when did you see Mr. Dorfman again?

A We departed the courthouse together and walked back to the Andrew Jackson Hotel.

Q At the Andrew Jackson Hotel?

A Yes, sir.

Q And did you have lunch there at the Andrew Jackson Hotel?

A No, sir, we did not. I had a sandwich and cup of coffee myself in the basement cafeteria of the courthouse building.

Q Did you go into the coffee shop at the Andrew Jackson Hotel?

A I did not.

Q At no time on Monday?

A No, sir. Except, sorry, Mr. Hooker, I had break-

fast in the coffee shop on Monday.

Q Breakfast in the coffee shop, what time was the breakfast?

A Oh, I imagine about 8:15 or 8:30, something like that.

Q Well, what time did you get into Nashville on Sunday, October 21st?

A I arrived about 6:15. I have repeated that.

Q 6:15 at night?

A That's right. In the evening.

Q In the evening?

A Yes.

Q When did you first see Mr. Partin?

A I saw Mr. Partin for the first and only time on Monday, which was Sunday -- which was on October 22nd, around sometime I say right after lunch or sometime.

Q Did you see him in the coffee shop of the Andrew Jackson Hotel?

A I did not, sir.

Q Where did you see him?

A In the lobby on the couch near the registration desk.

Q Who was with you?

A Mr. Dorfman.

Q Anyone else?

A No, sir.

Q And you say you introduced yourself as Nicholas Tweel and not as Anthony Quinn?

A Sir, I didn't introduce myself. Mr. Dorfman introduced me to Mr. Partin and my correct and proper name of which name I was registered in the hotel.

Q And that is the only time you saw Mr. Partin?

A That is true.

Q Now, before you came to Nashville, Mr. Tweel, when had been the last time you talked to Mr. Dorfman?

A Before I came to Nashville I would imagine I talked to him that previous week from New York City.

Q You say you talked to him frequently before that?

A Well, we exchanged a dozen or so calls during that period as I informed the Court and jury I made approximately a thousand calls during that period and it would be hard for me to recollect.

Q I understand you claimed to have had a dozen or so calls with him during that period, but I'm asking before you came down here to Nashville the night before the commencement of the Hoffa trial when had you talked to him last?

A Well, I must have talked to him before the October 12th meeting of the board of directors to see if he was going to attend the meeting of the board of directors and I must have talked to him following the October 12th

meeting of the board of directors.

Q They are the only times that you can recall having talked to him, you say, during that month?

A Do you mean by telephone or personally?

Q Yes.

A Well, unless I examine my telephone records I couldn't exactly determine.

Q Well, let me ask you if you had a conversation with him --

MR. SILETS: (Interposing) Your Honor, I'm going to object to Mr. Neal writing on this blackboard. I don't think that is proper. I never heard of such a thing. Is Mr. Hooker going to cross examine this witness and then Mr. Neal going to write things down? That is highly improper.

MR. HOOKER: I propose to ask him about these calls and let them for convenience and clarity be put on the blackboard as we ask about them.

MR. REDDY: We have the same objection, they have taken our certain calls to try to show some sort of a pattern which actually does not exist. If they will show all the calls, we don't mind. If they will show calls like they did with Partin, show the consequences before, during the trial, then show the ones after the trial. Things of that sort is what we object to. If they produce them all, we have no objections.

MR. NEAL: May it please the Court, we have turned over all our telephone records.

MR. BERKE: Just a moment, I have --

MR. NEAL: (Interposing) Let me finish.

MR. BERKE: (Interposing) If Mr. Hooker is cross examining, he should make the objections and it should not be two-party proposition. I think if there is any objection insofar as testimony and statements of counsel, should be made by one counsel only. I think that is the rule.

THE COURT: Let's proceed, gentlemen. Nothing before the Court at this time for the Court to properly rule upon.

MR. SILETS: May it please the Court, may the record indicate that the marshals at the direction of the government have brought in a large blackboard? Mr. Neal at the time I made my objection began to write something on the board and it appears to be the letters O. C. T. This is in full view of the jury. I don't know what its meaning is.

End 10
10a fls

THE COURT: Well, we'll strike that. Strike that from the blackboard.

BY MR. HOOKER:

Q Did you make a call--

THE COURT: Proceed.

MR. HAGGERTY: It appears to me it isn't erased from the blackboard, Your Honor.

MR. NEAL: I will erase it.

THE COURT: Erase O.C.T. from the blackboard.

MR. HOOKER: Now may I proceed if Your Honor please?

THE COURT: Yes, sir.

BY MR. HOOKER:

Q Did you make a call from the American Cigarette Service Company to Allen Dorfman, Illinois, on October 20, at 3:41 p. m. in the afternoon which lasted one minue and 32 seconds?

A I must have placed that call but like I say I made over a thousand calls during that period and it would be hard for me to recollect precisely what time I made a call and how long it lasted.

Q Well, now, what is the day, day before you came to Nashville, did you talk to Allen Dorfman that day?

A I don't recollect, sir. If the records show that I did, I must have. Now, the government handed me on the last day of the trial my 1,400 phone calls and I really haven't had

time to go through them and I really can't interpret the cards myself. If the records show I made a call, I must have made a call. I wouldn't deny that at all.

Q Well, I hand you here a record of this call, and ask you to state if you made the call on that day.

A Well, I'm not acquainted with the IBM machine that makes these cards. But if I made the call, I made the call. I mean, I couldn't interpret this card myself. I don't have any knowledge of these markings or the indications on this card.

Q But you don't deny that you made a call to him at that time or about that time?

A If the records do so indicate it is probably true.

Q What did you call him about?

A All of my conversations with Mr. Dorfman pertained to nothing but my business matters with regard to the insurance company and these property matters we had under consideration to purchase.

Q Did it involve the making of any loans with anybody?

A I explained to you, Mr. Hooker, that all my conversations with Mr. Dorfman concerned only the insurance company and the loan possibilities on these properties I was interested in purchasing.

Q Did it involve any conversation about a prospective

loan with the Teamsters union?

A Not to my knowledge, sir.

Q What do you mean not to your knowledge?

A I did not know what financial institutions Mr. Dorfman had associations with concerning loans.

Q And was that the call the occasion on which you made arrangements to meet him in Nashville?

A No, sir. Mr. Dorfman called me if you have the records they will verify my statements that he called me at my residence Sunday morning at ten o'clock during which time he asked me to meet him in Nashville.

Q That would be October 21st?

A That's right, sir.

Q And he didn't get to Nashville until sometime Sunday night?

End 10A

Tk 11 fol/